

Before a Hearings Panel
Appointed by the Otago Regional Council

under: the Resource Management Act 1991

in the matter of: submissions and further submissions in relation to the
Proposed Otago Regional Policy Statement 2021
(excluding parts determined to be a freshwater planning
instrument)

and: **Sanford Limited**
Submitter #122

Legal submissions on behalf of Sanford Limited

Dated: 8 May 2023

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MAY IT PLEASE THE HEARINGS PANEL

INTRODUCTION

- 1 These legal submissions are presented on behalf of Sanford Limited (*Sanford*).
- 2 Sanford is a submitter (#122) and further submitter (#1223) on the proposed Otago Regional Policy Statement (*pORPS*).
- 3 In summary:
 - 3.1 Sanford generally supports the approach taken towards aquaculture activity in the pORPS as notified;
 - 3.2 Sanford supports the amendments proposed to certain key provisions by the Otago Regional Council's (*Council*) reporting officer, Mr Maclennan, and following the ecologists' expert conferencing on the criteria for significant natural areas (*SNAs*);
 - 3.3 Sanford's remaining concerns are:
 - (a) further suggested changes to the criteria for SNAs; and
 - (b) the retention of other key provisions as notified (where other submitters are seeking changes to these provisions).
- 4 These submissions provide a high level overview of Sanford's interests in the pORPS. They briefly address the statutory framework and then turn to Sanford's remaining concerns.
- 5 Sanford has filed evidence from:
 - 5.1 **Ms Alison Undorf-Lay** – Sanford Industry Liaison Manager;
 - 5.2 **Dr Hilke Giles** – coastal and systems scientist; and
 - 5.3 **Mr Adrian Low** – planner (primary and rebuttal evidence).
- 6 These witnesses have prepared brief summary statements for the Panel's benefit, which represent their updated position for the hearing.

SANFORD'S INTERESTS IN THE PORPS

- 7 As set out in Sanford's submission and **Ms Undorf-Lay's** evidence, Sanford is a publicly listed seafood company with a significant interest in aquaculture.

- 8 Sanford's operations include catching and farming marine species, farm services, and processing, packaging and exporting seafood products. Sanford has well-established markets domestically and internationally, and strives to develop and promote New Zealand seafood products at every opportunity.
- 9 Sanford's salmon farming and processing businesses employ significant numbers of people throughout New Zealand. Sanford strives to be a good neighbour in the communities in which it operates and is recognised for its proactive engagement in community wellbeing and sustainability. Sanford is committed to a sustainable future for its business and stakeholders, people, customers and communities, including in the Otago region.
- 10 Sanford's interests in the Otago region include its existing hatchery facility in Kaitangata and its proposed offshore marine farms. **Ms Undorf-Lay's** evidence provides more detail on these existing and proposed activities.
- 11 Given the importance of the pORPS as providing the overarching, strategic resource management direction for the Otago region, Sanford's interests in the pORPS relate to provisions that might influence or affect its ability to operate its existing facility and to implement its significant development plans.

STATUTORY FRAMEWORK

- 12 The Panel will be well aware of the relevant statutory framework. For the purposes of Sanford's position on the pORPS, we reiterate briefly that:
- 12.1 a regional policy statement must give effect to the New Zealand Coastal Policy Statement (*NZCPS*);¹ and
- 12.2 a regional council must prepare its regional policy statement in accordance with, *inter alia*, its obligation to prepare and have regard to a section 32 evaluation report.²
- 13 In particular, section 32 requires consideration of whether the objectives of the pORPS are the most appropriate way to achieve the purpose of the RMA, whether the provisions are the most appropriate way to achieve the objectives, and an assessment of the benefits and costs of the environmental, economic, social and cultural effects anticipated from the implementation of the provisions. **Mr Low's** evidence addresses the relevant section 32 matters in more detail.

¹ Resource Management Act 1991 (*RMA*), s 62(3).

² *RMA*, s 61(1)(c).

SANFORD'S REMAINING CONCERNS

14 In the following paragraphs we briefly address Sanford's remaining concerns with the provisions of the pORPS. Sanford's witnesses cover these matters in detail in their evidence and summary statements.

Policy CE-P5

15 Policy CE-P5 is no longer of concern for Sanford. However, for completeness we note that while Sanford supported Policy CE-P5 as notified, the Section 42A Report version contained significant changes that Sanford did not support, primarily on the basis that they did not give effect to the NZCPS.

16 The Council's reporting officer, Mr MacLennan, now proposes further changes to Policy CE-P5 and these are supported and considered to give effect to the NZCPS. **Mr Low's** evidence discusses the iterations of Policy CE-P5 in detail.

APP2 – SNA criteria

17 Sanford's submission and the evidence of **Dr Giles** and **Mr Low** outlined Sanford's position that the proposed SNA criteria in APP2 of the pORPS were overly broad and would result in large areas of the Otago region being classified as SNAs. This would have significant implications for Sanford's existing and proposed activities. This is particularly given the lack of recognition in the provisions of the differences between terrestrial, freshwater and marine ecosystems.

18 As a result of expert conferencing between the parties' ecologists, as directed by the Panel, APP2 has been significantly refined. Based on the expertise of **Dr Giles**, Sanford supports many of the refinements.

19 However, there are some remaining areas where greater clarity is required, including greater recognition of the uniqueness of the marine environment, to make the SNA criteria fit for purpose.

20 This is particularly important and necessary in the context of the pORPS, which of course guides implementation of the planning framework throughout the Otago region. The SNA criteria play an important role where the rubber hits the road at the local level (for example, in consenting processes) and it is therefore critical that this process gets them right.

21 **Dr Giles** explains these remaining concerns with the SNA criteria in her summary statement.

Other provisions

22 **Mr Low's** evidence and summary statement outlines Sanford's interests in several other provisions, including Policy CE-P11. In

essence, Sanford supported these provisions as notified, however other submitters seeks various changes to them. **Mr Low's** evidence sets out the rationale for why Sanford seeks that the provisions remain as notified.

- 23 A further provision in this category which is outlined in Sanford's submission is Policy UFD-P7. This policy addresses the management of rural areas. Sanford's existing hatchery at Kaitangata is in a rural area and Sanford considers it important that the facility, and any future expansion or other facilities, are enabled in these areas.
- 24 We understand that the Urban Form and Development chapter has been the subject of a re-drafting exercise. Sanford continues to seek that its activities are enabled in rural areas and therefore seeks that its relevant submission point be taken into account in the Panel's decision-making on this matter.

CONCLUSION

- 25 Sanford's principal concerns with the pORPS are to ensure that the provisions appropriately provide for the ongoing operation and maintenance of its existing hatchery facility at Kaitangata and the implementation of its significant offshore marine farm development plans.
- 26 Sanford's activities bring, and have the potential to bring, multiple social, economic and other benefits to the Otago region and this should be recognised and provided for in the planning framework.
- 27 The proposed or agreed amendments to various provisions have gone a long way to satisfying many of Sanford's concerns. Sanford acknowledges and appreciates the work of the Council staff and others in resolving many of its concerns.
- 28 Sanford's remaining concerns can be addressed by the amendments proposed in the evidence of **Dr Giles** and **Mr Low**.
- 29 In our submission, the Panel should accept the remaining relief sought by Sanford as per the evidence of its witnesses, and otherwise retain the provisions of the pORPS as currently proposed.

Dated: 8 May 2023



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