

8 April 2025

Landpro Reference: 24191

Council Reference: APP-20242761

Environment Southland

Cnr North Rd & Price Street, Waikiwi,
Invercargill 9810

Dear Ryan

Re: Request for Additional Consent Application under Section 91 of the Resource Management Act 1991 – Incidental discharges.

In reference to your request for an additional application dated 8th April 2025 please find outlined below our response to this request.

1 Introduction

The purpose of this additional information for an additional application is to not duplicate material included with APP-20242761, rather add to this.

1.1 Overview of Proposal

In summary, Paul Turner for Paul Turner Farm Trust operates a dairy farm on Sinclair Road, near Opio, with a current 160 ha dairy platform and 60 ha leased runoff block. The applicant has agreed to sell 22 ha of the dairy platform and relinquish 16ha of lease land and purchase an adjoining 35 ha block to expand the dairy platform.

The proposal seeks to modify existing consents to increase the milking herd from 450 to 550 cows and incorporate the new 35 ha block into the dairy operation. Dairy support activities, including heifer grazing and cut-and-carry, will continue within the expanded farm.

Existing consents include effluent discharge, groundwater take and self-fed silage feed pads, all expiring in July 2025. The applicant is seeking new 15-year consents for replacement consents and the expansion.

Advice received from Environment Southland noted where resource consent is required for a farming land use activity under Rule 20 of the pSWLP, the incidental discharge of contaminants from the farming activity would be permitted under Rule 24(a)(i) of the pSWLP. However, Rule 24 is currently subject to appeals to the Environment Court, and as such, cannot be treated as operative. Accordingly, consideration must also be given to the applicable rules of the RWP. Until Rule 24 can be treated as operative, incidental discharges from farming land use activities requiring resource consent under Rule 20 of the pSWLP, will also be assessed under

the rules of the RWP. Rule 3 provides that the discharge of any contaminant into water is a discretionary activity.

1.2 Activity Classification

1.2.1 *Incidental Discharges from Farming*

Table 8 summarises the Discharge Permit sought under the RWP.

Table 1: Summary consents required and applicable rules.

Consent	Plan	Rule	Activity Status
Discharge Permit – incidental discharge from farming	RWP	Rule 3	Discretionary activity

Rule 24 of the pSWLP relates to incidental discharges from farming activities, particularly focusing on the unintended release of contaminants such as sediment, nutrients (nitrogen and phosphorus), and microbial contaminants into water bodies due to normal farming operations.

Rule 24 of the pSWLP was found to be unlawful because it failed to meet the requirements of Section 70 of the Resource Management Act 1991 (RMA), which governs the making of rules that allow discharges into water.

The Environment Court ruled that Rule 24 failed to comply with s70, as it effectively permitted discharges that could exceed allowable limits and cause water quality deterioration. The Court emphasized that regional councils cannot permit activities that result in prohibited water quality effects under s70.

As Rule 24 is not lawful, the rule is not able to permit incidental discharges from farming activities covered by under Rule 20 that this application related to, and a discharge permit is required.

The only applicable activity classification is discretionary, via Rule 3 of the RWP.

2 Description of the Existing Environment

Please see the original application.

3 Notification and Consultation

Please see the original application which requests public notification.

No changes are sought.

4 Assessment of Environmental Effects

4.1 Assessment of Alternatives

The only alternative to the incidental discharge of contaminants from farming dairy cows is to change the farming operation from dairy cows to another stock type that no longer triggers rule 20. This is unfeasible due to the large capital investment already made into running the current dairy farm operation.

4.2 Discharges from Farming

As per the draft guidance note for discharges associated with farming land use consents dated 31 March 2025, the assessment of effects on the environment that is prepared for the farming land use consent application will also be sufficient to assess the potential effects on the environment associated with the incidental discharges. Accordingly, the effects assessment for the land use consent application required by Rule 20 of the pSWLP is provided in Section 6.4 of the original AEE prepared for APP-20242761.

4.3 Effects on Statutory Acknowledgement Area

Please see Section 6.5 of original AEE for APP-20242761.

4.4 Cumulative Effects

Please see Section 6.6 of APP-20242761.

4.5 Positive Effects

Please see Section 6.7 of original AEE for APP-20242761.

4.6 Other Assessment Matters

Please see Section 6.8 of original AEE for APP-20242761.

The inclusion of an additional consent for incidental discharges from farming does not modify the original assessment included.

In summary, the proposal will result in net positive benefits to the local community.

Landscape and visual effects, the presence of dairy farming, farming equipment and cows are expected within the rural locality. Recreational and cultural values are expected to be maintained and improved.

5 Statutory Considerations

Please see Section 7 of original AEE for APP-20242761. Additional comments are included below.

5.1 Incidental Discharges

Planning Document	Particularly relevant sections
Southland Regional Policy Statement	Objectives: WQUAL.1, WQUAL.2 Policies: WQUAL 1, 2, 5, 7, 8, and 9. RURAL.5
Regional Water Plan for Southland	Objectives: 2, 3, 4 Policies: 1A, A4, 1, 3, 6, 7,
Proposed Southland Water and Land Plan	Objectives: 6, 7, 8, 12, 13, 18 Policies: 5, 6, 8, A4, 13, 14, 15A/15B, 16, 18, and 39A
Te Tangi a Tauira	Section: 3.5.11, 3.5.13, 3.5.16, 3.5.17, 3.5.19, 3.5.20

The above are the objectives and policies identified from various planning documents that relate to water quality. It is not intended to duplicate the assessment provided in Section 7.2.2.4 of the original AEE, however re-emphasis that many of the same objectives and policies relate to incidental discharges from farming.

The proposal is considered consistent with Rule 3 of the RWP, ensuring that incidental discharges from farming are managed to avoid adverse effects on water quality, with an emphasis on minimizing contaminant pathways through effective mitigation strategies.

5.2 Section 105 and 107 of the RMA

Please see Section 7.3 of original AEE for APP-20242761.

In addition, with regards to recent changes to s107 and insertion of s107 2A, our assessment of effects above and in the original application shows that matters (a) to (c) will be met. In terms of existing activities occurring with existing effects, it is common practice for Environment Southland to impose standard conditions on discharge permits to ensure effects are avoided, remedied, or mitigated, and the assessment of effects included here shows that a reduction in effects from farming will occur over time, see assessment of effects with regard to Policy 16 of pSWLP.

There are no matters under Section 107(1) of the RMA that would require the consent authority to decline this application.

6 Consent Duration, Review and Lapse

Please see Section 8 of the original application for APP-20242761.

7 Conclusion

A decision to grant the resource consent application(s) under Section 104B is recommended on the basis that:

- a) the adverse effects on the environment are likely to be negligible;
- b) The proposal is consistent with the requirements of the RMA, relevant regional plan objectives and policies and other relevant matters.

Granting the resource consent application(s) will be consistent with the purpose of the RMA for the reasons explained within this report. The proposed activities are unlikely to result in further degradation of water quality and potential adverse effects will be avoided or mitigated as far as practicable.