

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

UNDER the Resource Management 1991
IN THE MATTER of appeals under Clause 14 of the First Schedule of the Act

BETWEEN **TRANSPOWER NEW ZEALAND LIMITED**
(ENV-2018-CHC-26)

FONTERRA CO-OPERATIVE GROUP
(ENV-2018-CHC-27)

HORTICULTURE NEW ZEALAND
(ENV-2018-CHC-28)

ARATIATIA LIVESTOCK LIMITED
(ENV-2018-CHC-29)

WILKINS FARMING CO
(ENV-2018-CHC-30)

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**RELIEF SOUGHT ON
BEHALF OF ARATIATIA LIVESTOCK LIMITED**

Topic B Tranche 1

22 February 2022

Judicial Officer: Judge Borthwick

**GORE DISTRICT COUNCIL, SOUTHLAND DISTRICT
COUNCIL & INVERCARGILL DISTRICT COUNCIL**
(ENV-2018-CHC-31)

DAIRYNZ LIMITED
(ENV-2018-CHC-32)

H W RICHARDSON GROUP
(ENV-2018-CHC-33)

BEEF + LAMB NEW ZEALAND
(ENV-2018-CHC-34 & 35)

DIRECTOR-GENERAL OF CONSERVATION
(ENV-2018-CHC-36)

SOUTHLAND FISH AND GAME COUNCIL
(ENV-2018-CHC-37)

MERIDIAN ENERGY LIMITED Act 1991
(ENV-2018-CHC-38)

ALLIANCE GROUP LIMITED
(ENV-2018-CHC-39)

FEDERATED FARMERS OF NEW ZEALAND
(ENV-2018-CHC-40)

HERITAGE NEW ZEALAND POUHERE TAONGA
(ENV-2018-CHC-41)

STONEY CREEK STATION LIMITED
(ENV-2018-CHC-42)

THE TERRACES LIMITED
(ENV-2018-CHC-43)

CAMPBELL'S BLOCK LIMITED
(ENV-2018-CHC-44)

ROBERT GRANT
(ENV-2018-CHC-45)

**SOUTHWOOD EXPORT LIMITED, SOUTHLAND
PLANTATION FOREST COMPANY OF NZ,
SOUTHWOOD EXPORT LIMITED**
(ENV-2018-CHC-46)

**TE RUNANGA O NGAI TAHU, HOKONUI RUNAKA,
WAIHOPAI RUNAKA, TE RUNANGA O AWARUA & TE
RUNANGA O ORAKA APARIMA**
(ENV-2018-CHC-47)

PETER CHARTRES
(ENV-2018-CHC-48)

RAYONIER NEW ZEALAND LIMITED
(ENV-2018-CHC-49)

**ROYAL FOREST AND BIRD PROTECTION SOCIETY OF
NEW ZEALAND**
(ENV-2018-CHC-50)

Appellants

AND

SOUTHLAND REGIONAL COUNCIL

Respondent

May it please the Court:

1. In accordance with the Direction at [42](f)(ii) of the Record of the Pre-Hearing Conference held on 10 February 2022, Aratiatia Livestock Limited records that it seeks the following relief in relation to the Topic B Tranche 1 matters in which it has an interest. The changes sought are shown in annotations (additions and ~~deletions~~).

2. Changes to definitions in the Glossary:

a. Amendment of the definition of “critical source area”:

“Critical source area

(a) a landscape feature like a gully, swale or a depression that accumulates runoff (sediment and nutrients) from adjacent flats and slopes, and delivers it to surface water bodies (including lakes, rivers, artificial watercourses and modified watercourses) or subsurface drainage systems.; and

(b) a non-landscape feature that has high levels of contaminant losses, such as, silage pits, fertiliser storage areas, stock camps and laneways.

~~*(b) areas which arise through land use activities and management approaches (including cultivation and winter grazing) which result in contaminants being discharged from the activity and being delivered to surface water bodies.”*~~

b. Deletion of the definition of “ephemeral rivers”:

~~“Ephemeral rivers~~

~~*Rivers which only contain flowing or standing water following rainfall events or extended periods of above average rainfall.”*~~

c. Introduction of a new definition for “high risk winter grazing”:

“High risk winter grazing is break-feeding stock on fodder or pasture between 1 May and 30 September inclusive, where the post-grazing residual is less than 1000 kgDM/ha.”

3. Deletion of Rule 20(aa) and all other references to ephemeral rivers throughout the pSWLP.
4. Implementation of the relief on Rule 20, Rule 20A, Rule 20B and Rule 25 recommended in the Planning JWS. Those elements of the rules relevant to Aratiatia's appeal and interests are reproduced below for clarity:

- a. Amendment of Rule 20 – Farming to read:

“Rule 20 – Farming

...

(a) The use of land for a farming activity, other than for intensive winter grazing, is a permitted activity provided the following conditions are met:

...

~~(iii) where the farming activity includes intensive winter grazing on the landholding, the following conditions are met:~~

...

~~(F) critical source areas (including swales) within the area being grazed that accumulate runoff from adjacent flats and slopes are grazed last;~~

- b. Introduction of a new Rule 20A – Intensive Winter Grazing, reading:

“Rule 20A – Intensive winter grazing

(a) Intensive winter grazing is a permitted activity provided the following conditions are met:

...

(iv) critical source areas within the area being intensively winter grazed must:

(1) be identified in the Farm Environmental Management Plan; and

(2) have stock excluded from them; and

(3) not be cultivated into forage crops for intensive winter grazing”

- c. Introduction of a new Rule 20B – High risk winter grazing on pasture, reading:

Rule 20B –High risk winter grazing on pasture

(a) High risk winter grazing on pasture is a permitted activity provided the following conditions are met:

(i) livestock must be kept at least:

(1) 20 metres from the bed of any Regionally Significant Wetland or Sensitive Water Bodies listed in Appendix A, estuary or the coastal marine area; and

(2) 10/5 metres from the bed of any other river, lake, artificial watercourse (regardless of whether there is any water in it at the time), modified water course or natural wetland; and

(ii) critical source areas within the area being winter grazed on pasture must:

(1) be identified in the Farm Environmental Management Plan; and

(2) have stock excluded from them; and

(iii) On areas where significant de-vegetation occurs, vegetation is re-established as soon as practicable; and

(iv) a Farm Environmental Management Plan for the landholding is prepared and implemented in accordance with Appendix N, that also includes a grazing plan that includes:

(1) downslope grazing or a 20 metre 'last-bite' strip at the base of the slope; and

(2) back fencing to prevent stock entering previously grazed areas; and

(v) no high risk winter grazing on pasture occurs at an altitude greater than 800 metres above mean sea level; and

(b) The use of land for high risk winter grazing on pasture that does not meet conditions (a)(i)-(vi) of Rule 20B is a restricted discretionary activity provided the following conditions are met:

(i) a Farm Environmental Management Plan is prepared and implemented in accordance with Appendix N

The Southland Regional Council will restrict its discretion to the following matters:

1. the quality of and compliance with Appendix N and the Farm Environmental Management Plan for the landholding;

2. mitigation actions and good management practices to be undertaken, including those to minimise the discharge of nitrogen, phosphorus, sediment and microbiological contaminants to water from the use of land, taking into account contaminant loss pathways;

3. the potential benefits of the activity to the applicant, the community and the environment;

4. the potential effects of the farming activity on surface and groundwater quality and sources of drinking water;

5. monitoring and reporting undertaken to assess the effectiveness of any mitigation implemented.

(c) The use of land for high risk winter grazing on pasture that does not meet conditions of Rule 20B(b) is a non-complying activity.

(d) The use of land for high risk winter grazing on pasture that does not meet condition (vii) of Rule 20A(a) is a prohibited activity.

d. Amendment of Rule 25 – Cultivation, to read:

“Rule 25 – Cultivation

(a) *The use of land for cultivation is a permitted activity provided the following conditions are met:*

...

(v) critical source areas are not cultivated when forage crops used for intensive winter grazing are established and sediment detention is established when cultivating critical source areas for any other purpose.”

**Dated 22 February 2022
D A Allan – Counsel for Aratiatia Livestock Limited**