

**BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH
I MUA I TE KOOTI TAIAO O AOTEAROA
KI OTAUTAHI**

ENV-2018-CHC-34

IN THE MATTER OF The Resource Management Act 1991

AND

IN THE MATTER OF Appeals under clause 14 of the First Schedule to the Act

BETWEEN **BEEF+LAMB NEW ZEALAND LIMITED**

Appellant

AND **SOUTHLAND REGIONAL COUNCIL**

Respondent

**MEMORANDUM OF COUNSEL FOR BEEF+LAMB NEW ZEALAND
LIMITED SETTING OUT FINAL VERSION OF RELIEF SOUGHT
22 February 2022**

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MAY IT PLEASE THE COURT:

1. In its minute dated 29 October 2021 and record of pre-hearing dated 15 February 2022, the Court directed all parties to file and serve memoranda setting out the final version of relief sought.
2. The final version of relief sought by Beef+Lamb New Zealand Limited (**B+LNZ**) is set out in the attached document marked "Appendix A", subject to one point of clarification below.
3. In Counsel's memorandum of 20 December 2021 B+LNZ indicated it was withdrawing its appeal against the decisions on policy 18(2a). No directions have been made on that withdrawal at this time. B+LNZ is not an appellant or s 274 party on any other part of policy 18. Nonetheless B+LNZ has included its preferred version of policy 18 in Appendix A. That version does not include any changes to the decisions version of policy 18(2a) and is otherwise in accordance with the agreed outcome from the joint witness statements of the planning experts.



CP Thomsen
Counsel for Beef+Lamb New Zealand
22 February 2022

Appendix A

Key

Red –relief being pursued (or supported) by B+LNZ

Policy 18 – Stock exclusion from water bodies

~~Reduce~~ Avoid where practicable, or otherwise remedy or mitigate, any adverse effects from the discharge of sedimentation and or microbial contamination of contaminants to water bodies and improve river ~~(excluding ephemeral rivers)~~ and riparian ecosystems and habitats by:

1. requiring progressive exclusion of all stock, except sheep, from lakes, rivers ~~(excluding ephemeral rivers)~~, natural wetlands, artificial watercourses, and modified watercourses on land with a slope of less than 15 degrees by 2030;
- 2a. requiring the management of sheep in critical source areas and in those catchments where *E.coli* levels could preclude contact recreation;
3. encouraging the establishment, maintenance and enhancement of healthy vegetative cover in riparian areas, particularly through use of indigenous vegetation; and
4. ensuring that stock access to lakes, rivers ~~(excluding ephemeral rivers)~~, natural wetlands, artificial watercourses and modified watercourses is managed in a manner that avoids significant adverse effects on water quality, bed and bank integrity and stability, mahinga kai, and river and riparian ecosystems and habitats; and
5. showing, in a Farm Environmental Management Plan prepared and implemented in accordance with Appendix N, how 1-4 will be achieved and by when.

Rule 70

- (a) ~~From 1 July 2020,~~ The disturbance of roosting and nesting areas of the black fronted tern, black billed gull, banded dotterel or black fronted dotterel located in the bed of a lake, river, ~~(including an ephemeral river),~~ modified watercourse, ~~or natural wetland~~ by stock including cattle, deer, pigs or sheep is a prohibited activity.
- (b) ~~From 1 July 2020,~~ The disturbance of the bed of a Regionally Significant Wetland or Sensitive Water Body listed in Appendix A by stock including cattle, deer, pigs or sheep is a prohibited activity.
- (c) The disturbance of the bed of a river ~~(excluding ephemeral rivers where stock access is permitted under Rule 20(aa))~~ or modified watercourse for the purposes of moving stock including cattle, deer, pigs or sheep (but excluding dairy cattle on a dairy platform or on land used for dairy support) is a permitted activity provided the stock are being supervised and are actively driven across the water body in one continuous movement.
- (ca) The disturbance of the bed of a lake, river or modified watercourse by sheep, other than as regulated by Rule 70(a) and 70(b), is a permitted activity, provided the following conditions are met:
- (i) the waterbody is not already fenced to prevent sheep access;
 - (ii) the sheep are not being break fed or intensively winter grazed;
 - (iii) there is no significant de-vegetation leading to exposure of soil of the bed and banks, pugging or alteration to the profile of the bed and banks, other than at fords or stock crossings; and
 - (iv) a Farm Environmental Management Plan for the landholding is prepared, certified, implemented and audited in accordance with Appendix N, and shows how access by sheep will be managed;
- (cb) The use of land within a natural wetland or the disturbance of the bed of a water body within a natural wetland for access or grazing by stock is a non-complying activity.

- (d) Bed disturbance activities that do not comply with Rule 70(c) are a non-complying activity.
- (e) Other than as provided for by Rules 70(c), 70(ca) and 70(d), the disturbance of the bed of a lake, river (~~excluding ephemeral rivers where stock access is permitted under Rule 20(aa)~~), modified watercourse, open drain, or natural wetland by cattle, deer or pigs is a permitted activity prior to the dates set out in Table 1 for the listed land slopes after which time it is respectively a discretionary activity on that land.

Table 1: Timetable for stock exclusion from water bodies

Farm/stock type	Land slope (as classified by the LRI slope dataset)		
	Plains (0-3°)	Undulating/rolling land (>3-15°)	Steeper land (>15° and over)
Dairy cattle (on dairy platforms) and pigs	All water bodies <u>(including open drains)</u> that are: <ul style="list-style-type: none"> over 1 metre wide from 1 July 2017 on all slopes less than 1 metre wide from 1 July 2020 on the plains and undulating/rolling land 		
Dairy support (on either land owned/leased by the dairy farmer or third party land)	All water bodies, <u>and open drains</u> from 1 July 2022	All water bodies, <u>and open drains</u> over 1 metre wide from 1 July 2022	All water bodies, <u>and open drains</u> where break feeding occurs from 1 July 2022
Beef cattle and deer	All water bodies <u>(including open drains)</u> from 1 July 2025	All water bodies <u>(including open drains)</u> over 1 metre wide from 1 July 2030, unless the average stocking rate on the land directly adjacent to the water body is less than 6 stock units per hectare	
	All water bodies <u>(including open drains)</u> where break feeding <u>or supplementary feeding</u> occurs from 1 July 2022.		

Definition Stock Unit (new)

Stock unit means the equivalent of one 55 kilogram breeding ewe, bearing a single lamb, consuming 550 kilograms DM average quality feed over a year.