

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

IN THE MATTER of the Resource Management Act 1991

AND appeals under clause 14 of the First
Schedule of the Act

BETWEEN ARATIATIA LIVESTOCK
LIMITED

(ENV-2018-CHC-29)

(and all other appellants listed in
the Schedule attached)

Appellants

AND SOUTHLAND REGIONAL
COUNCIL

Respondent

MINUTE OF THE ENVIRONMENT COURT
Questions for Dr Monaghan and Mr McCallum-Clark
(5 July 2022)

Introduction

[1] Arising from the Farm Systems and Planning Conference dated June 2022, the court has questions for Dr Monaghan and Mr McCallum-Clark set out below.

[2] I also make two directions for matters that counsel are to address at the start of the hearing tomorrow, Wednesday 6 July 2022.



Questions for Dr Monaghan and Mr McCallum-Clark

Policy 16(1)(ba) – possible amendment

[3] Rather than managing intensification of IWG, does Policy 16(1)(ba) implement the objectives, by ensuring:

- (a) there is no increase in nitrogen, phosphorus, sediment and microbial contaminant discharges² and
- (b) depending on whether the landholding is in a catchment in Schedule X, that contaminant discharges from this activity are either minimised or reduced?

[4] Noting the difficulty with the term ‘new’, and noting also NES-F Reg 30 applies to ‘new’ IWG,¹ would the intended application of the policy be made clearer if the preamble to sub-cl (ba) is amended as follows:

(ba) ensuring that for the establishment of new², or further intensification of existing², dairy farming of cows or for ensuring that intensive winter grazing activities...

Policy 16(1)(ba)(ii) and (iii) – Minimise and reduce

[5] Where the discharges occur in a Schedule X catchment, can contaminants discharged from IWG be **both** minimised and reduced? If not (or if this is not what is intended), should Policy 16(1)(ba)(ii) be amended to delete ‘and’ and replace with ‘or’?

¹ Makes new IWG a discretionary activity.

Answers to [17] and [24] of the Minute

General questions

[6] Recalling that methods may also implement policies (RMA, s 67(2)(b)), comment whether Appendix N, cl 6(b):²

- (a) requires all farming activities achieve a reduction in the discharge of contaminants; and
- (b) in achieving a reduction, is something in addition to ‘minimisation’ required to be demonstrated?

IWG intensification – Appendix N

[7] Issue: does Appendix N manage variation in the discharge of contaminants from farming activities?

[8] Comment whether the stock unit days/ha metric, like that proposed by Dr Monaghan, Mr Orchiston and Ms Jordan in the June JWS:

- (a) is a measure of Policy 16(1)(ba)’s intensification of IWG?
- (b) elaborate on reasons why the metric is not suitable as a hard threshold of intensity for rule making purposes;
- (c) comment on the suitability of the stock unit days/ha metric for inclusion in Appendix N, Pt B – Environmental Management Plan Default Content. If it is included in the default content, how might the FEMP respond to a change in the stock unit days/ha?

² For farms located in a Schedule X catchment.

Reduction in contaminants – Appendix N, Objective 5(a) reordered

[9] The court understands:

- (a) Total Nitrogen (TN) is the sum of nitrogen species found in water (i.e. nitrate-nitrogen ($\text{NO}_3\text{-N}$), nitrite-nitrogen ($\text{NO}_2\text{-N}$) and ammoniacal-nitrogen ($\text{NH}_4\text{-N}$) and organic nitrogen such as amino acids, plant tissue and detritus);
- (b) Dissolved Inorganic Nitrogen (DIN) is the sum of nitrite (NO_2), nitrate (NO_3) and ammonia.

[10] Using nitrogen as an example, Policy 16(1)(b) and (ba) and Appendix N require certain action be taken in relation to ‘nitrogen’, as opposed to ‘TN’ or ‘DIN’. Minimising or reducing nitrogen may maintain or improve water quality; TN and DIN are two attributes of the ecosystem health value.

[11] Likewise, Policy 16(1)(b) and (ba) and Appendix N require action to be taken in relation to ‘phosphorus’; ‘TP’ and ‘DRP’ which are attributes of the ecosystem health value.

[12] Is our understanding above correct?

[13] With reference to Objective 5(a) as proposed to be amended in the June JWS, is the emphasis upon – for example – ‘nitrogen’ or ‘TN’?

Response to paragraph 29 – removal of land

[14] The experts may have overlooked footnote 22. The court is not proposing land be removed from production, rather ‘removal of land’ was our shorthand for setbacks, critical source areas and slope controls proposed by the parties.

[15] With this in mind, would their response to paragraph [29] of the Minute change?

Questions for counsel

High risk winter grazing

[16] It was the court's expectation that the definition of this activity and any subsequent amendment proposed to the pSWLP would be addressed in the June JWS together with reasons for the same.

[17] Parties are to propose an evidence timetable on this topic at the resumption of the hearing on **Wednesday 6 July 2022**. Evidence will be given prior to Mr McCallum-Clark's scheduled return on 25 July 2022.

[18] The evidence is to address:

- (a) confirm stock type that the definition is to apply to;
- (b) is a metric to be added to the definition, at (a) for lactating dairy cows or are they irrelevant?
- (c) how does 'cattle' relate to dairy cows, if at all?
- (d) any other amendments proposed to the rules and methods.

Proposed wording for Rules 25 and 35B on pp 16-20 of June JWS

[19] Parties are to confirm at the resumption of the hearing on **Wednesday 6 July 2022** if the wording of the above provisions differs from the June 2022 Consolidated Plan.

Jane S.



J E Borthwick
Environment Judge

Issued: 5 July 2022

Schedule – List of appellants

ENV-2018-CHC-26	Transpower New Zealand Limited
ENV-2018-CHC-27	Fonterra Co-operative Group Limited
ENV-2018-CHC-29	Aratiatia Livestock Limited
ENV-2018-CHC-30	Wilkins Farming Co Limited
ENV-2018-CHC-31	Gore District Council & others
ENV-2018-CHC-32	DairyNZ Limited
ENV-2018-CHC-33	H W Richardson Group Limited
ENV-2018-CHC-34	Beef + Lamb New Zealand
ENV-2018-CHC-36	Director-General of Conservation
ENV-2018-CHC-37	Southland Fish and Game Council
ENV-2018-CHC-38	Meridian Energy Limited
ENV-2018-CHC-40	Federated Farmers of New Zealand (Southland Province) Inc
ENV-2018-CHC-44	Wilkins Farming Co Limited (previously Campbell's Block Limited)
ENV-2018-CHC-45	Wilkins Farming Co Limited (previously Robert Grant)
ENV-2018-CHC-46	Southwood Export Limited & Others
ENV-2018-CHC-47	Te Rūnanga o Ngāi Tahu, Hokonui Rūnaka, Waihopai Rūnaka, Te Rūnanga o Awarua & Te Rūnanga o Oraka Aparima
ENV-2018-CHC-49	Rayonier New Zealand Limited
ENV-2018-CHC-50	Royal Forest and Bird Protection Society of New Zealand Incorporated