

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

UNDER the Resource Management Act 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)

(Continued next page)

**MEMORANDUM OF COUNSEL FOR SOUTHLAND REGIONAL COUNCIL
PROVIDING FINAL LIST OF RESOLVED AND UNRESOLVED ISSUES
19 November 2021**

Judicial Officer: Judge Borthwick

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

**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
(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, KODANSHA
TREEFARM NEW ZEALAND LIMITED, SOUTHLAND
PLANTATION FOREST COMPANY OF NEW ZEALAND**
(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 This Memorandum of Counsel is filed on behalf of the Southland Regional Council in respect of the appeals against the Council's decision on the proposed Southland Water and Land Plan.
- 2 By memorandum dated 24 September 2021, counsel provided a list of all resolved and unresolved issues as at that date.¹ It was noted in that memorandum that parties continue to discuss the unresolved issues, and so some of these may be resolved prior to hearing. Parties were subsequently directed to advise the Court whether they agreed with the list of resolved and unresolved issues provided by counsel.
- 3 At the Pre-Hearing Conference on Tuesday 19 October 2021, counsel advised that there were some changes to make to the list of issues.
- 4 Attached as **Appendix A and B** to this memorandum are updated lists of the resolved and unresolved issues. These lists were circulated to all parties for their review prior to filing, and any changes advised have been made.

DATED this 19th day of November 2021



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P A C Maw / A M Langford
Counsel for the Southland Regional Council

¹ Memorandum of Counsel for Southland Regional Council dated 24 September 2021 at Appendix A and B.

Appendix A – resolved issues

Topic B1 – Water takes (resolved)			
Issue #	Issue	Provisions	Status
1	Should the reference to 'water quality in Policy 20(d)(2) also specify temperature and oxygen content?	Policy 20	Resolved - parties to file draft consent orders
2	Should Appendix O be referred to by Policy 20, or reflect limits to improving water efficiency in older industrial or trade infrastructure?	Policy 20	Resolved - appeal point withdrawn/to be withdrawn
3	Should 'including for primary production' be deleted?	Policy 20(1A)	Resolved - parties to file draft consent orders
4	Is 'avoid, remedy, or mitigate' appropriate to include or should the wording be altered? If so, how?	Policy 20(1)	Resolved - parties to file draft consent orders
5	Should 'industries that process perishable foods' be deleted, or otherwise clarified?	Policy 25	Resolved - parties to file draft consent orders
7	Should Policy 42(5) require that Alliance's takes are subject to minimum flows or levels?	Policy 42	Resolved - appeal point withdrawn/to be withdrawn
8	Should Rule 49 enable the consideration of all non-consumptive takes, diversions and use of water as a restricted discretionary activity?	Rule 49	Resolved - appeal point withdrawn/to be withdrawn
9	Should compliance with Appendix R only apply to permitted activities or be deleted from Rule 49?	Rule 49	Resolved - appeal point withdrawn/to be withdrawn
10	Should Rule 49(a)(vi)(1) to (5) be retained or deleted?	Rule 49	Resolved - parties to file draft consent orders
12	Should existing priority takes be a controlled activity under Rule 50?	Rule 50	Resolved - appeal point withdrawn/to be withdrawn
13	Should permitted activity water take data be recorded daily or weekly?	Rule 54(a)	Resolved - parties to file draft consent orders

Topic B1 – Water takes (resolved)			
Issue #	Issue	Provisions	Status
14	Should the rate of take for permitted activity pump testing be removed/amended?	Rule 54(c)	Resolved - appeal point withdrawn/to be withdrawn
15	Should Alliance's sites be included in Appendix J as drinking water protection zones?	Appendix J	Resolved - appeal point withdrawn/to be withdrawn
16	Should the relief sought in submission point 752.186 be granted?	Appendix K	Resolved - parties to file draft consent orders
17	Should the groundwater zone allocations be based on a different methodology?	Appendix L.5	Resolved (partial - Director-General of Conservation appeal) - parties to file draft consent orders

Topic B2 – Water Quality and Discharges (resolved)			
Issue #	Issue	Provisions	Status
1	Should reference to primary production be deleted from this policy?	Policy 13	Resolved - parties to file draft consent orders
2	Should the policy be premised on sustainable use and development?	Policy 13	Resolved - appeal point withdrawn/to be withdrawn
4	Should Policy 14 only apply if a discharge to land is practicable and appropriate?	Policy 14	Resolved - appeal point withdrawn/to be withdrawn
5	Should Policy 15, ahead of FMU processes, require maintenance of water quality where Appendix E quality standards are met, and improvement, where practicable, where Appendix E standards are not met, with Policies 15A and 15B being deleted?	Policies 15A, 15B	Resolved - appeal point withdrawn/to be withdrawn

Topic B2 – Water Quality and Discharges (resolved)			
Issue #	Issue	Provisions	Status
7	Should new and replacement resource consents be treated the same in these policies?	Policy 15A and 15B	Resolved – parties to file draft consent orders
8	Should Policy 15B require more certainty that water quality from existing discharges will be improved?	Policy 15B	Resolved - parties to file draft consent orders
10	Should the policies require avoidance of adverse effects, or have a hierarchy of avoid, remedy and mitigate, rather than minimisation of effects?	Policies 15A, 15B, 16A, 17A	Resolved - parties to file draft consent orders
11	Will BPO always be an adequate response?	Policy 16A	Resolved - parties to file draft consent orders
12	Should the Policy refer to ‘progressive’ reductions and is that sufficiently specific?	Policy 17A	Resolved - parties to file draft consent orders
13	Should discharges into listed wetlands or waterbodies in Appendix A be a noncomplying activity?	Rules 5 and 6	Resolved - appeal point withdrawn/to be withdrawn
14	Should reconsenting existing discharges be discretionary activities?	Rules 5 and 6	Resolved - appeal point withdrawn/to be withdrawn
15	Should the discharge of any raw sewerage be a non-complying activity?	Rules 5, 6 and 15	Resolved - parties to file draft consent orders
16	Should achieving the Appendix E water quality standards be a condition of the rules?	Rules 5, 6 and 15	Resolved - parties to file draft consent orders
17	Should “stormwater” include other contaminants?	Rule 15 and/or definition	Resolved - parties to file draft consent orders
18	Should discharges from stormwater systems, on-site effluent systems, composting and pit toilets be required to be set-back at least 50m from mātaimai reserves and taiāpure?	Rules 15, 26, 28 and 29	Resolved - parties to file draft consent orders
19	Should the 20m waterbody setback apply to community sewerage schemes constructed prior to notification of the pSWLP?	Rule 33	Resolved - parties to file draft consent orders

Topic B2 – Water Quality and Discharges (resolved)			
Issue #	Issue	Provisions	Status
20	Should the discharge of treated effluent into water be a discretionary activity?	Rule 33A	Resolved - parties to file draft consent orders
22	Should fine sediment be added and MCI, QMCI and Clarity changed?	Appendix E	Resolved - parties to file draft consent orders
23	Should the standards be amended so they take appropriate account of existing land use, existing water quality and natural variability?	Appendix E	Resolved - appeal point withdrawn/to be withdrawn
24	Should Mataura River at Mataura River Bridge be deleted from the list of popular bathing sites in Appendix G?	Appendix G	Resolved - appeal point withdrawn/to be withdrawn
25	Should the policy require avoidance of (significant) adverse effects, or have a hierarchy of avoid, remedy and mitigate, rather than minimisation of effects?	Policy 17	Resolved - parties to file draft consent orders
26	Should Policy 17(1) be deleted, as guidance is given by Policies 15 and 16?	Policy 17	Resolved - parties to file draft consent orders
27	Should the requirement to comply with agrichemical manufacturers recommendations be deleted?	Rule 9	Resolved - parties to file draft consent orders
28	Should further standards be added and existing ones strengthened, including adding Appendix E water quality standards?	Rule 13	Resolved - parties to file draft consent orders
29	Should an exclusion from standards be added to enable periodic cleaning of drains?	Rule 13	Resolved - parties to file draft consent orders
30	Should the requirement to map and provide information on sub-surface drains be removed?	Rules 13, 35 + ors	Resolved - parties to file draft consent orders
31	Should the setback be increased to 10m and there be a specification of a minimum width for riparian planting?	Rule 14	Resolved - appeal point withdrawn/to be withdrawn
32	Should restrictions apply to natural wetland or all wetlands?	Rule 14	Resolved - appeal point withdrawn/to be withdrawn

Topic B2 – Water Quality and Discharges (resolved)			
Issue #	Issue	Provisions	Status
33	Should the plan clarify that IPENZ practice notes may not be applicable to all above ground tanks?	Policy 17, Rule 32B	Resolved - parties to file draft consent orders
34	Should only new effluent storage facilities be subject to a setback from drinking water abstraction points?	Rule 32B	Resolved - appeal point withdrawn/to be withdrawn
35	Should approval be able to be given by a broader range of suitably qualified people?	Rule 32B	Resolved - appeal point withdrawn/to be withdrawn
36	Should the incidental discharges authorised by this rule be subject to a pond drop test?	Rule 32B, 32D	Resolved - parties to file draft consent orders
37	Should the 35m3 threshold for inspection and certification be for each component of a system, rather than the whole system?	Rule 32B, 32D	Resolved - parties to file draft consent orders
38	Should above ground storage tanks be subject to visual inspection, and not require a leak detection system?	Rule 32D	Resolved - parties to file draft consent orders
39	Should the repair of storage facilities be a permitted activity under this rule?	Rule 32D	Resolved - parties to file draft consent orders

Topic B3 – Wetlands and Indigenous Biodiversity (resolved)			
Issue #	Issue	Provisions	Status
2	Should Policy 32 include reference to maintaining indigenous biodiversity?	Policy 32	Resolved - parties to file draft consent orders
4	Should commercial peat harvesting in a regionally significant wetland be a non-complying activity?	Rule 74	Resolved - appeal point withdrawn/to be withdrawn
5	Should Rule 74(ab) be deleted?	Rule 74(ab)	Resolved - parties to file draft consent orders

Topic B3 – Wetlands and Indigenous Biodiversity (resolved)			
Issue #	Issue	Provisions	Status
7	Should removal of plant species for mahinga kai be included as a purpose under Rule 74(a)?	Rule 74	Resolved - parties to file draft consent orders
9	Should additional detail be added to the Note in Appendix A?	Appendix A	Resolved - parties to file draft consent orders
10	Should additional waterbodies from the deleted Appendix Q be incorporated into Appendix A?	Appendix A	Resolved - parties to file draft consent orders
11	Should Appendix A revert to the notified version, by removing the added waterbodies? Should the Regionally Significant Wetlands on the Te Anau Downs station be removed from Appendix A?	Appendix A	Resolved - appeal point withdrawn/to be withdrawn
12	Should the definition of 'natural wetland' be amended?	Definition	Resolved - appeal point withdrawn/to be withdrawn
13	Should either the definition of 'wetland' or references to wetlands in rules be amended?	Definition	Resolved - appeal point withdrawn/to be withdrawn

Topic B4 – Bed Disturbance (resolved)			
Issue #	Issue	Provisions	Status
1	Is 'remedy or mitigate' appropriate to include or should the wording be deleted?	Policy 28	Resolved - parties to file draft consent orders
2	How are gravel extraction activities able to remedy or mitigate effects on cultural values or recreational values?	Policy 29	Resolved - parties to file draft consent orders
3	Should the adverse effects on significant indigenous vegetation and significant habitat of indigenous fauna be included in the policy?	Policy 29	Resolved - parties to file draft consent orders
4	After gravel extraction should the area be 'restored' or 'enhanced'?	Policy 29	Resolved - parties to file draft consent orders

Topic B4 – Bed Disturbance (resolved)			
Issue #	Issue	Provisions	Status
5	Should the policy include the restoration or riverine habitats also?	Policy 29	Resolved - parties to file draft consent orders
6	Should the adverse effects on water quality, aquatic ecosystem health, life supporting capacity, natural character and riparian margins, mahinga kai, indigenous vegetation and fauna be specifically referenced in the policy?	Policy 30	Resolved - parties to file draft consent orders
7	Should fish passage, spawning habitat and bank stability be referred to in the policy?	Policy 30	Resolved - parties to file draft consent orders
8	Should sediment loss to water from the drainage activities be referenced in the policy?	Policy 30	Resolved - parties to file draft consent orders
9	How can network utility structures be recognised when culverts are being installed so as to not compromise the network utilities?	Rule 59	Resolved - appeal point withdrawn/to be withdrawn
10	Should the matters of discretion in Rule 73(A) and (B) be consistent and should Rule 73(B) include reference to natural character, navigation hazard, public access and recreational values?	Rule 73	Resolved - parties to file draft consent orders
11	Should a certain level of gravel extraction be provided for as a permitted activity?	Rule 73	Resolved - appeal point withdrawn/to be withdrawn

Topic B5 – Farming (resolved)			
Issue #	Issue	Provisions	Status
34	Should Table 1, beef cattle and deer on plains be amended to read the same as the guidance for undulating/rolling and steeper land?	Rule 70	Resolved - appeal point withdrawn/to be withdrawn
37	Should the winter grazing mob size limit of no more than 120 cattle be increased to 200?	Rule 20	Resolved - appeal point withdrawn/to be withdrawn

Topic B5 – Farming (resolved)			
Issue #	Issue	Provisions	Status
43	Should Rule 20(a)(iii)(3)(E) be amended to increase the mob (herd) size of cattle from 120 to 200?	Rule 20	Resolved - appeal point withdrawn/to be withdrawn
44	Should the dates in Rule 20(a)(iii) be replaced with 31 December 2025?	Rule 20	Resolved - appeal point withdrawn/to be withdrawn
45	Should Rule 20(a)(iii)(4) be amended to require a 3 metre setback?	Rule 20	Resolved - appeal point withdrawn/to be withdrawn
50	Specific relief unclear - Rule 20(a)(iii)(3)(E) is also identified as being appealed, but there is no specific relief in the appeal notice.	Rule 20	Resolved - appeal point withdrawn/to be withdrawn
52	Should the months in the definition of 'intensive winter grazing' refer to 'June and August'?	Intensive winter grazing	Resolved - appeal point withdrawn/to be withdrawn
55	Should the matters for discretion in Rule 20 be amended to ensure water quality will not be adversely affected and ensure that water quality standards, limits, and targets are met?	Rule 20	Resolved - appeal point withdrawn/to be withdrawn
56	Should the matters for discretion in Rule 20 Discourage land use intensification and conversion which would affect the catchment's ability to meet water quality standards and targets?	Rule 20	Resolved - appeal point withdrawn/to be withdrawn
57	Should the matters for discretion in Rule 20 be amended to prevent the allocation of nutrients in the catchment by resource consent?	Rule 20	Resolved - appeal point withdrawn/to be withdrawn
58	Should the matters for discretion in Rule 20 be amended to ensure that existing land users and communities are recognised and provided for?	Rule 20	Resolved - appeal point withdrawn/to be withdrawn
79	Should the rule allow for cultivation to undertaken in accordance with the Erosion and Sediment Control Guidelines for Vegetable Production (Hort NZ, 2014)?	Rule 25 – Cultivation	Resolved - appeal point withdrawn/to be withdrawn
91	Should the definition of 'cultivation' include harvesting and sediment control measures?	Definition – Cultivation	Resolved - appeal point withdrawn/to be withdrawn

Topic B5 – Farming (resolved)			
Issue #	Issue	Provisions	Status
92	Should spray and pray be deleted from the definition of cultivation?	Definition – Cultivation	Resolved - appeal point withdrawn/to be withdrawn
103	Should Appendix N include the requirement to show the location of 'any known and recorded heritage site' in Farm Management Plans?	Appendix N	Resolved - parties to file draft consent orders

Topic B6 – Infrastructure and Waiau / Manapōuri Power Scheme (resolved)			
Issue #	Issue	Provisions	Status
3	Should Policy 26A be amended to enable, where practicable, the avoidance of adverse effects on the environment?	Policy 26A	Resolved - appeal point withdrawn/to be withdrawn
4	Should the management of effects from infrastructure be considered under “effects management” policies of the pSWLP?	Policy 26A	Resolved - parties to file draft consent orders
5	Does the ability under Policy 26A to remedy or mitigate effects conflict with requirements to maintain water quality?	Policy 26A	Resolved - parties to file draft consent orders
6	Should Policy 26A be amended to “enable” rather than “provide for” the effective development, operation, maintenance and upgrading of infrastructure?	Policy 26A	Resolved - appeal point withdrawn/to be withdrawn
7	Is there sufficient clarity as to what constitutes effective development, operation, maintenance and upgrading on regionally significant infrastructure and what is not already covered by the definition of “critical infrastructure”?	Policy 26A	Resolved - parties to file draft consent orders
8	Should Rule 49(ab) be extended to address the damming and diversion of surface water?	Rule 49ab	Resolved - appeal point withdrawn/to be withdrawn
11	Should there be a new Rule 52(a)(iii) which provides a discretionary activity status where the permitted activity criteria under Rule 49(ab) is unable to be met?	Rule 52	Resolved - appeal point withdrawn/to be withdrawn

Topic B6 – Infrastructure and Waiau / Manapōuri Power Scheme (resolved)			
Issue #	Issue	Provisions	Status
9	Should Rule 49(ab)(vii) be amended to exclude activities undertaken for the purpose of infrastructure construction, maintenance or repair in connection with the Manapōuri Hydro-electric scheme?	Rule 49ab	Resolved - appeal point withdrawn/to be withdrawn
10	Should Rule 49(ab) be listed in the exclusions under Rule 52(a) and 52(b)?	Rule 52	Resolved - parties to file draft consent orders
13	Should all abstraction, diversion, damming and use of water from the Waiau catchment, except as provided by Rules 49, 50 or 51 or RMA s.14(3), be a non-complying activity?	Rule 52	Resolved - appeal point withdrawn/to be withdrawn
16	Should Rule 52A be extended to apply to the Monowai Hydro-electric Generation Scheme?	Rule 52A	Resolved - appeal point withdrawn/to be withdrawn

Topic B7 – Other remaining discrete issues (resolved)			
Issue #	Issue	Provisions	Status
1	Should Policy 39 be retained, amended to include reference to water quantity, or deleted?	Policy 39	Resolved - parties to file draft consent orders
2	Should the policy include reference to the CMA as it is a function of council set out in s30?	Policy 39A	Resolved - parties to file draft consent orders
3	Should the policy refer to 'improving' rather than 'considering' when assessing against the sub clauses of the policy?	Policy 39A	Resolved - parties to file draft consent orders
4	Should the Policy be moved to the FMU section of the Plan to better align the policy with the FMU process?	Policy 39A	Resolved - appeal point withdrawn/to be withdrawn
5	Is it appropriate for the Ngā Rūnanga indicators of health to be considered when assessing the term of a resource consent?	Policy 40(2)	Resolved - appeal point withdrawn/to be withdrawn

Topic B7 – Other remaining discrete issues (resolved)			
Issue #	Issue	Provisions	Status
6	Should the rule be deleted as burning is controlled by the fire service?	Rule 79	Resolved - Council to make alteration of minor effect or to correct minor error
7	Should the title of the bed disturbance section of the Plan be renamed to include wetlands?	Title	Resolved - parties to file draft consent orders
8	Should historic heritage values be included in the policies?	Policies 20, 24 and 28	Resolved - parties to file draft consent orders
9	Should an advice note for historic heritage values be included in the rules?	Rules 32B, 43, 53, 55, 59A and 63A	Resolved - parties to file draft consent orders
10	Should the advice note addressing historic heritage values be located at the end of the rule cascade?	Rules 57, 58, 59, 60, 61, 62, 64, 66, 67, 68, 72, 73, 75, 78	Resolved - parties to file draft consent orders
11	Should the appendix be amended to refer to instances when an archaeological authority has not been obtained?	Appendix S	Resolved - Council to make alteration of minor effect or to correct minor error

Appendix B – unresolved issues

Topic B1 – Water Takes (unresolved)			
Issue #	Issue	Provisions	Status
6	Is the wording of Policy 42(2) appropriate?	Policy 42	Unresolved - hearing required
11	Do annual verifications (as required by Rule 49(a)(vii)) provide any greater benefit than 5-yearly verifications?	Rule 49	Unresolved - hearing required
17	Should the groundwater zone allocations be based on a different methodology?	Appendix L.5	Unresolved (partial - Wilkins appeal) - hearing required

Topic B2 – Water Quality and Discharges (unresolved)			
Issue #	Issue	Provisions	Status
3	Should the decision version be replaced with the notified version as it is now no longer protection oriented, or is redundant?	Policy 13	Unresolved - hearing required
6	Should the decision version of Policies 15A, 15B and 15C be replaced with the s42A report version?	Policy 15A, 15B, and 15C	Unresolved - hearing required
9	Should Policy 15C be deleted as the FMU processes will provide this guidance?	Policy 15C	Unresolved - hearing required
21	Delete exclusion for Waiiau/Manapōuri	Appendix E	Unresolved - hearing required

Topic B3 – Wetlands and Indigenous Biodiversity (unresolved)			
Issue #	Issue	Provisions	Status
3	Should minor diversions of water from all wetlands (including Regionally Significant Wetlands) be discretionary or non-complying?	Rule 51	Unresolved - hearing required
6	Should Rule 74(c) specify that grazing by stock or drainage activities are land uses?	Rule 74	Unresolved - hearing required
8	Should the drainage of any natural wetland be a prohibited activity?	Rule 74	Unresolved - hearing required

Topic B4 – Bed Disturbance (unresolved)			
Issue #	Issue	Provisions	Status
12	How are threatened native fish protected from disturbance associated with drainage maintenance activities?	Rule 78	Unresolved - hearing required
13	Should this rule protect taonga species and their habitat that are established in modified watercourses?	Rule 78	Unresolved - hearing required
14	Should this rule include a condition requiring that the watercourse is not a habitat of non-migratory galaxiids?	Rule 78	Unresolved - hearing required
16	Should drainage management include a limit of the volume of gravel being extracted as a permitted activity?	Rule 78	Unresolved - hearing required
17	Should gravel be defined by a particular size of grain?	Gravel definition	Unresolved - hearing required
18	Should the pSWLP include a new definition for sediment?	New definition	Unresolved - hearing required

Topic B5 – Farming (unresolved)			
Issue #	Issue	Provisions	Status
1	Should policy 16 be amended to remove reference to the terms “degraded” and “overallocated” given they are not defined in the plan, and freshwater objectives have not yet been defined?	Policy 16	Unresolved - hearing required
2	Should Policy 16 include the term “strongly” in front of “discouraging” for new intensive farming activities in proximity to regionally significant wetlands and sensitive waterbodies?	Policy 16	Unresolved - hearing required
3	Should policy 16 strongly discourage the establishment of other intensive farming activities in proximity to regionally significant wetlands and sensitive waterbodies?	Policy 16	Unresolved - hearing required
4	Should policy 16 be amended to remove direction for applications submitted following the development of freshwater objectives and limits under the fmu process?	Policy 16	Unresolved - hearing required
5	Should policy 16 be amended to delete direction on consideration matters for aggregate consents and consent durations?	Policy 16	Unresolved - hearing required
6	Should the policy have a hierarchy of avoid, remedy and mitigate?	Policy 16	Unresolved - hearing required
7	Should Policy 16 avoid the establishment of any new, or further intensification of existing dairy farming of cows or intensive winter grazing activities where contaminant losses will increase as a consequence?	Policy 16	Unresolved - hearing required
8	Should Policy 16 direct that decision makers will strongly discourage granting of any resource consents to establish new activities specified in clause (b) of the policy?	Policy 16	Unresolved - hearing required

Topic B5 – Farming (unresolved)			
Issue #	Issue	Provisions	Status
9	If direction for applications submitted following the development of freshwater objectives and limits under the FMU process is not deleted, should amendments be made to direct decision makers to avoid granting consents where freshwater objectives are not being met, and strongly discouraging those where they are being met?	Policy 16	Unresolved - hearing required
10	Should Farm Environmental Management Plans set out the best practicable option to manage adverse effects and include additional requirements for practices to be implemented and maintained?	Policy 16	Unresolved - hearing required
11	Should granting a consent duration of at least 5 years only be allowed if it is consistent with Policy 40 to do so?	Policy 16	Unresolved - hearing required
12	Should Policy 16 ensure that adverse effects on water quality are avoided, and other adverse environmental effects are avoided, remedied or mitigated?	Policy 16	Unresolved - hearing required
13	Should “discouraging” be replaced with “avoiding” in Policy 16?	Policy 16	Unresolved - hearing required
14	Should the terms “generally” and “or mitigated” be deleted in Policy 16?	Policy 16	Unresolved - hearing required
15	Should guidance be provided on which waterbodies are considered relevant for contact recreation purposes?	Policy 18	Unresolved - hearing required
16	Should the measure or standard that will be used to specify levels of E.COLI be stated?	Policy 18	Unresolved - hearing required

Topic B5 – Farming (unresolved)			
Issue #	Issue	Provisions	Status
17	Should the requirement to manage sheep in critical source areas and in catchments where E.COLI levels could preclude contact recreation be deleted?	Policy 18	Unresolved - hearing required
18	Should Rule 70(e) be expanded to include artificial drains?	Rule 70	Unresolved - hearing required
19	Should the original 2025 timeframe be retained?	Policy 18	Unresolved - hearing required
20	Should “significant” be deleted in relation to adverse effects of stock access?	Policy 18	Unresolved - hearing required
21	Should the chapeau of Policy 18 be amended to avoid where practicable, or otherwise remedy or mitigate, any adverse effects?	Policy 18	Unresolved - hearing required
22	Should Policy 18(1) state that stock exclusion as set out within the clause be required by 2030 at the latest?	Policy 18	Unresolved - hearing required
23	Should Policy 18(3) also encourage maintenance?	Policy 18	Unresolved - hearing required
24	Should Policy 18(4) be amended to include additional adverse effects?	Policy 18	Unresolved - hearing required
25	Should Policy 18 also require the implementation of a Farm Environmental Management Plan?	Policy 18	Unresolved - hearing required

Topic B5 – Farming (unresolved)			
Issue #	Issue	Provisions	Status
26	Should the plan define stock units?	Rule 70	Unresolved - hearing required
27	Should Rule 70 explicitly exempt sheep from stock exclusion rules, so they are not otherwise captured by Rule 4?	Rule 70	Unresolved - hearing required
28	Should Rule 70(e) include a condition that there is no significant de-vegetation, pugging or alteration to the profile of the bed and banks?	Rule 70	Unresolved - hearing required
29	Should Rule 70(e) include a condition that there is no break feeding or supplementary feeding in, over or on the bed?	Rule 70	Unresolved - hearing required
30	Should Rule 70 include a clause that other than provided for by clauses (c) or (d), the disturbance of the bed [after] the dates in Table 1 is a non-complying activity?	Rule 70	Unresolved - hearing required
31	Should Table 1 be amended to include all natural wetlands and waterbodies including artificial drains?	Rule 70	Unresolved - hearing required
32	Should the Table 1 dates for dairy support be brought forward from 1 July 2022 to 1 July 2020?	Rule 70	Unresolved - hearing required
33	Should the Table 1 references to break feeding also include supplementary feeding?	Rule 70	Unresolved - hearing required
35	Should the activity status for clause (e) be changed from discretionary to non-complying?	Rule 70	Unresolved - hearing required

Topic B5 – Farming (unresolved)			
Issue #	Issue	Provisions	Status
36	Should the restriction for intensive winter grazing to no more than 15% of the area of the landholding or 100 hectares, whichever is the lesser, be deleted?	Rule 20	Unresolved - hearing required
38	Should the winter grazing mob size limit of no more than 120 cattle or 250 deer be deleted?	Rule 20	Unresolved - hearing required
39	Should cattle be removed from the winter grazing mob size limits? Or if not deleted, should the rule include “or equivalent number of young stock at any one time”?	Rule 20	Unresolved - hearing required
40	Should Rule 20 be expanded to specify that supplementary feed is fed in such a way as to prevent it being trampled into the ground, such as placing the feed in portable feeders or behind an electrified wire?	Rule 20	Unresolved - hearing required
41	Should Rule 20(a)(iii)(3)(B) refer to areas being break-fed or block-fed behind temporary electric fencing?	Rule 20	Unresolved - hearing required
42	Should Rule 20(a)(iii)(3)(C) refer to the beds of identified waterbodies?	Rule 20	Unresolved - hearing required
46	Does Rule 20(a)(iii)(1) discourage best management practice and nutrient management?	Rule 20	Unresolved - hearing required
47	Should “whichever is lesser” in Rule 20(a)(iii)(1) be deleted?	Rule 20	Unresolved - hearing required
48	Are the practices listed in Rules 20(a)(iii)(3)(B)-(E) “too blunt” and should they be deleted?	Rule 20	Unresolved - hearing required
49	Should “or 100 hectares, whichever is lesser” in Rule 20(a)(iii)(1) be deleted?	Rule 20	Unresolved - hearing required

Topic B5 – Farming (unresolved)			
Issue #	Issue	Provisions	Status
51	Should the definition of 'intensive winter grazing' refer to 'fodder crops or pasture to the extent that grazing results in significant de-vegetation'?	Intensive winter grazing	Unresolved - hearing required
X	Alternative Intensive winter grazing relief proposed by Fish & Game	Intensive winter grazing	Unresolved - hearing required
53	Should a specific exemption from preparing and implementing a Farm Environmental Management Plan be provided for manufacturing operations that discharge to land and which have a specific discharge consent for that purpose? Or as an alternative, should a new definition of farming activity be included that excludes these activities?	Rule 20	Unresolved - hearing required
54	Should a quantitative assessment only be required for modelled nitrogen, and expected changes in other contaminants demonstrated by way of a separate assessment?	Rule 20	Unresolved - hearing required
59	Should Rule 20(aa) be deleted?	Rule 20	Unresolved - hearing required
60	Should sloping ground be replaced with land with a slope greater than 4 degrees?	Rule 20	Unresolved - hearing required
61	Should rule 20 include references to headwater seeps/springs, and tarns?	Rule 20	Unresolved - hearing required
62	Should stock be excluded from critical source areas?	Rule 20	Unresolved - hearing required
63	Should there be more requirements for vegetated strips based on slope angle?	Rule 20	Unresolved - hearing required
64	Should intensive winter grazing setbacks be 100 metres from the outer edge of the bed of any lake, regionally significant wetland or sensitive waterbodies, estuary or the CMA?	Rule 20	Unresolved - hearing required

Topic B5 – Farming (unresolved)			
Issue #	Issue	Provisions	Status
65	Should the adoption of the best practicable option to manage effects be required?	Rule 20	Unresolved - hearing required
66	Should contaminant loss pathways be taken into account in the matters for discretion?	Rule 20	Unresolved - hearing required
67	Should any adverse effects of the activity to the applicant, community and the environment be included in the matters for discretion?	Rule 20	Unresolved - hearing required
68	Should additional matters relating to potential adverse effects of the activity on surface and groundwater quality be included in the matters for discretion?	Rule 20	Unresolved - hearing required
69	Should Rule 20(e) be a non-complying activity?	Rule 20	Unresolved - hearing required
70	Should a footnote be added to define slope as it is used within Rule 20?	Rule 20	Unresolved - hearing required
71	Should intensive horticulture be managed by Rule 20(a)?	Rule 20	Unresolved - hearing required
72	Should setback distances in Rule 20 be increased?	Rule 20	Unresolved - hearing required
73	Should Rule 20(d) be amended to provide a non-complying activity status?	Rule 20	Unresolved - hearing required
74	Should reference to physiographic zones be reinstated in Rule 20 as per the Section 42A Report recommendations (with some exceptions) as a mechanism to maintain or improve water quality?	Rule 20	Unresolved - hearing required
75	In light of the court's provisional approval for the inclusion of the physiographic zone maps in the plan, what is the appropriate method of inclusion and what changes, if any, are required to the detail of the maps?	Whole of plan	Unresolved - hearing required

Topic B5 – Farming (unresolved)			
Issue #	Issue	Provisions	Status
76	Rule does not accord with s.70 of the RMA and fails the legal test for a valid PA rule. Should a requirement be added to maintain or improve water quality in accordance with Appendix E?	Rule 24	Unresolved - hearing required
77	Should there be a definition of 'significant de-vegetation'?	New Definition – Significant de-vegetation	Unresolved - hearing required
78	Should there be a definition of 'sloping ground'?	New Definition – Sloping Ground	Unresolved - hearing required
80	Should Rule 25 be expanded to include headwater seeps/springs and tarns?	Rule 25	Unresolved - hearing required
81	Should Rule 25 have specific set back distances based on slope?	Rule 25	Unresolved - hearing required
82	Should the 5 m setback to waterbodies be reduced to three meters?	Rule 25	Unresolved - hearing required
83	Should Rule 25 require that cultivation is not undertaken in critical source areas?	Rule 25	Unresolved - hearing required
84	Should Rule 25 require that temporary sediment retention systems are used when cultivating for the purpose of renewing or establishing pasture?	Rule 25	Unresolved - hearing required
85	Should clause B of Rule 25 be removed? (Alternate pathway if setback distances are not met)	Rule 25	Unresolved - hearing required

Topic B5 – Farming (unresolved)			
Issue #	Issue	Provisions	Status
86	Should matter of discretion 1 for Rule 25 be expanded to included adverse effects on surface and groundwater quality and quantity, aquatic ecosystem health, life-supporting capacity, mahinga kai, outstanding natural features and landscapes, indigenous vegetation and fauna, recreational values, amenity values and natural character?	Rule 25	Unresolved - hearing required
87	Should mitigation measures for addressing adverse effects be replaced by the best practicable option?	Rule 25	Unresolved - hearing required
88	Should the maximum land slope be increased from 20 degrees to 30 degrees (or a percentage to be over 20 degrees)?	Rule 25	Unresolved - hearing required
89	Should a definition of minimum tillage be introduced? (Minimum tillage would be a method that does not turn the soil over.)	Rule 25	Unresolved - hearing required
90	Should the matters of discretion for Rule 25 include risks to areas of significant indigenous vegetation and habitats and measures to avoid those risks and risks to the preservation of the natural character of wetlands, lakes, rivers and their margins?	Rule 25	Unresolved - hearing required
93	Should 'stick-raking' be excluded from the definition of cultivation?	Definition – Cultivation	Unresolved - hearing required
94	Should herbicide spraying be removed from the definition of cultivation?	Definition – Cultivation	Unresolved - hearing required
94A	Should Rule 25(a)(iv) exclude aerial herbicide spraying for forestry purposes?	Rule 25	Unresolved - hearing required
95	Should the references to cattle be removed from Rule 35A? If yes, seek consequential amendment to Rule 35.	Rule 35A	Unresolved - hearing required

Topic B5 – Farming (unresolved)			
Issue #	Issue	Provisions	Status
96	Should the references to maximum mob size be deleted?	Rule 35A	Unresolved - hearing required
97	Should the maximum period of continuous use be increased from 3 to 6 months?	Rule 35A	Unresolved - hearing required
98	Should the setback distance to another feed pad/lot on the same landholding be removed?	Rule 35A	Unresolved - hearing required
99	Should sacrifice paddocks be defined?	Rule 35A	Unresolved - hearing required
100	Should other materials be available as base materials?	Rule 35A	Unresolved - hearing required
101	Should a setback of 50 m to the coastal marine area be included?	Rule 35A	Unresolved - hearing required
102	Should 'sacrifice paddock' be removed from the definition of feed pad/lot?	Definition – Feedpad/feedlot	Unresolved - hearing required
104	Should a FEP contain landholding details with respect to the type of farming enterprise(s) undertaken on the property?	Appendix N	Unresolved - hearing required
105	Should Appendix N require the identification of ephemeral or intermittent rivers and streams?	Appendix N	Unresolved - hearing required
106	With respect to Part B(3)(i)(iii), should the maximum gradient for slope identification be reduced to 4 degrees?	Appendix N	Unresolved - hearing required
107	Should Part B include assessments of environmental effects, risks and mitigation measures?	Appendix N	Unresolved - hearing required

Topic B5 – Farming (unresolved)			
Issue #	Issue	Provisions	Status
108	Should Part B include objectives and require detail in FEPs in relation to how each objective will be met?	Appendix N	Unresolved - hearing required
109	Should Appendix N require timeframes for full implementation of proposed Good Management Practices be recorded in FEPs?	Appendix N	Unresolved - hearing required
110	Should Good Management Practices be implemented to avoid, where practicable, or otherwise mitigate effects as opposed to reduce or minimise?	Appendix N	Unresolved - hearing required
111	Should Appendix N require records be kept with respect to measuring implementation, performance and achievement of Good Management Practices?	Appendix N	Unresolved - hearing required
112	Has Appendix N become too broad, such that it no longer provides certainty as to what activities will be implemented to achieve Good Management Practice?	Appendix N	Unresolved - hearing required
113	Should Part B (5) include Good Management Practices that minimises the effects on taonga species listed in Appendix N and any significant indigenous biodiversity?	Appendix N	Unresolved - hearing required
114	How should the ecosystem health indicators and cultural indicators of health be incorporated into the pswlp policies and rules?	Various	Unresolved - hearing required

Topic B5 – Farming (unresolved)			
Issue #	Issue	Provisions	Status
115	Does contamination by high risk land use activities (such as dairying, intensification, intensive winter grazing, cultivation, activities that affect critical source areas) in areas where receiving environments contain a degraded or at risk waterbody require a consenting regime and/or changes to feps, and if so how should the pswlp provide for this?	Various	Unresolved - hearing required
116	Should ephemeral rivers be excluded from the provisions of the plan? (specific examples from appeals include the land use rules and objective 16.)	Ephemeral and Intermittent rivers throughout plan, including Objective 16	Unresolved - hearing required

Topic B6 – Infrastructure and Waiau / Manapōuri Power Scheme (unresolved)			
Issue #	Issue	Provisions	Status
1	Should Policy 26 be amended to address the issue of reverse sensitivity in relation to renewable electricity activities?	Policy 26	Unresolved - hearing required
2	Does Policy 26 give preference to new generation activities in addition to existing renewable sources?	Policy 26	Unresolved - hearing required
12	Should Policy 26 be amended to require increases to the minimum flow requirements in the Waiau River?	Policy 26	Unresolved - hearing required
15	What is the appropriate activity status for water takes for the Manapōuri Hydro-electric Generation Scheme?	Rule 52A	Unresolved - hearing required

Topic B6 – Infrastructure and Waiau / Manapōuri Power Scheme (unresolved)			
Issue #	Issue	Provisions	Status
17	In the event a flow and level regime for the Waiau catchment has been established in accordance with the First Schedule of the RMA and the appellant makes an application that conforms to the established regime, should the Southland Regional Council reserve control to impose a different regime than that determined via the First Schedule process?	Rule 52A	Unresolved - hearing required
18	Should the effects of the activity on mahinga kai, taonga species, and the spiritual and cultural values and beliefs of tangata whenua be considerations when processing resource consent applications in relation to the Manapōuri Hydro-electric Generation Scheme?	Rule 52A	Unresolved - hearing required
19	Should a new Rule 52B provide a discretionary activity status instead of non-complying in the event the conditions of Rule 52A are not met?	New Rule 52B	Unresolved - hearing required