

In the Environment Court of New Zealand
Christchurch Registry

I Mua I Te Kōti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-26 to 50

Under the Resource Management Act 1991 (RMA)

In the matter of appeals under clause 14 of Schedule 1 of the RMA relating to
the proposed Southland Water and Land Plan (**pSWLP**)

Between **Federated Farmers of New Zealand Inc**

Appellants in ENV-2018-CHC-40, and section 274 party to appeals:

ENV-2018-CHC-39 Alliance Group Limited;

ENV-2018-CHC-29 Aratiatia Livestock Limited

Ballance AgriNutrients Limited

Buckingham, Owen

ENV-2018-CHC-44 Campbell's Block Limited

ENV-2018-CHC-48 Chartres, Peter

Cockburn, Grant and Rachel

Dairy Holdings Limited

ENV-2018-CHC-36 Director General of Conservation

DR and JAE Pullar Limited

English, Hamish

Fairlight Station Limited

ENV-2018-CHC-27 Fonterra Co-operative Group Limited

ENV-2018-CHC-31 Gore District Council and others

ENV-2018-CHC-45 Grant, Robert

Gunton Farms Limited

ENV-2018-CHC-28 Horticulture NZ

Invercargill Airport Limited

ENV-2018-CHC-38 Meridian Energy Limited

Mt Linton Station Limited

Oil Companies

Rayonier NZ Limited

ENV-2018-CHC-50 Royal Forest and Bird Protection Society of NZ Inc

ENV-2018-CHC-37 Southland Fish and Game Council

ENV-2018-CHC-42 Stoney Creek Station Limited

ENV-2018-CHC-47 Te Runanga o Ngai Tahu and others

ENV-2018-CHC-43 The Terraces Limited

ENV-2018-CHC-26 Transpower NZ Limited

Waiau River Liaison Committee

Waiau Rivercare Group

And **Southland Regional Council (Environment Southland)**
Respondent

Position of Federated Farmers of New Zealand Inc.

29 October 2021

May it please the Court

- 1 Below are the provisions that Federated Farmers support for the unresolved policies that they have an interest in.

Policy 18

Delete policy 18(2a) as follows:

Policy 18 – Stock exclusion from waterbodies

1. Reduce sedimentation and microbial contamination of water bodies and improve river (excluding ephemeral rivers) and riparian ecosystems and habitats by:
2. ~~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; and~~
- 2a. requiring the management of sheep in critical source areas and in those catchments where E.coli levels could preclude contact recreation; and

Then amend Rule 70 accordingly as slope classes have been removed in (2)

Rule 20

Implement NES-F and s360 stock exclusions regulations, amend Rule 20 for consistency with them as follows:

Rule 20 – Farming

(aa) Unless stated otherwise by Rules 20, 25, 70 or any other rule in this Plan:

- (i) intensive winter grazing; or
- (ii) cultivation; or
- (iii) (iii) the disturbance by livestock including cattle, deer, pigs or sheep;

in, on or over the bed of an ephemeral river is a permitted activity.

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

- (i) the landholding is less than 20 hectares in area; or
- (ii) where the farming activity includes a dairy platform on the landholding, the following conditions are met:
 - (1) the dairy platform has a maximum of 20 cows; or
 - (2) the dairy platform had a dairy effluent discharge permit on 3 June 2016 that specified a maximum number of cows; and
 - (3) cow numbers have not increased beyond the maximum number specified in the dairy effluent discharge permit that existed on 3 June 2016; and
 - (4) from 1 May 2019, a Farm Environmental Management Plan for the landholding is prepared and implemented in accordance with Appendix N; and
 - (5) the landowner provides to the Southland Regional Council on request:
 - (A) a written record of the good management practices, including any newly instigated good management practices in the preceding 12 months, occurring on the landholding; and
 - (B) the Farm Environmental Management Plan prepared in accordance with Appendix N; and

(6) the land area of the dairy platform is no greater than at 3 June 2016; and

(7) no part of the dairy platform is at an altitude greater than 800 metres above mean sea level; and

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

(1) from 1 May 2019, intensive winter grazing does not occur on more than 15% of the area of the landholding or 100 hectares, ~~whichever is the lesser~~; and

Or National Environmental Standard-Freshwater (NES-F) provisions whichever is more stringent at the time of hearing

(2) from 1 May 2019, a Farm Environmental Management Plan for the landholding is prepared and implemented in accordance with Appendix N; and

(3) from 1 May 2019, all of the following practices are implemented:

(A) if the area to be grazed is located on sloping ground, stock are progressively grazed (break-fed or block-fed) from the top of the slope to the bottom, or a 20 metre 'last-bite' strip is left at the base of the slope; and

~~(B) when the area is being break fed or block fed, the stock (excluding sheep and deer) are back fenced to prevent stock entering previously grazed areas; and~~

~~(C) transportable water trough(s) are provided in or near the area being grazed to prevent stock accessing a lake, river (excluding ephemeral rivers), artificial watercourse, modified watercourse or natural wetland for drinking water; and~~

~~(D) if supplementary feed (including balcage, straw or hay) is used in the area being grazed it is placed in portable feeders; and~~

~~(E) if cattle or deer are being grazed the mob size being grazed is no more than 120 cattle or 250 deer; and~~

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

(4) from 1 May 2019, a vegetated strip is maintained in, and stock excluded from, the area between the outer edge of the bed of any lake, river (excluding ephemeral rivers where intensive winter grazing is permitted under Rule 20(aa)), artificial watercourse, modified watercourse or natural wetland for ~~a distance of at least 5 metres~~ the specified distance in the stock exclusion regulations or national environmental standards-freshwater; and

(5) from 1 May 2019, intensive winter grazing does not occur within ~~20 metres~~ the specified distance in the stock exclusion regulations or national environmental standards-freshwater ~~or~~ from the outer edge of the bed of any Regionally Significant Wetland or Sensitive Waterbodies listed in Appendix A, estuary or the coastal marine area; and

(6) no intensive winter grazing occurs at an altitude greater than 800 metres above mean sea level; and

(iv) for all other farming activities, from 1 May 2020 a Farm Environmental Management Plan is prepared and implemented in accordance with Appendix N.

(b) The use of land for a farming activity that includes intensive winter grazing on the landholding and which meets all conditions of Rule 20(a) other than condition (iii)(3) is a permitted activity, provided that:

(i) from 1 May 2019, a vegetated strip is maintained in, and stock excluded from, the area between the outer edge of the bed of any lake, river (excluding ephemeral rivers where intensive winter grazing is permitted under Rule 20(aa)), artificial watercourse, modified watercourse or natural wetland for the specified distance in the stock exclusion regulations or national environmental standards-freshwater ~~a distance of at least 20 metres~~.

- (c) Despite any other rule in this Plan, the use of land for a dairy platform or intensive winter grazing at an altitude greater than 800 metres above mean sea level is a prohibited activity.
- (d) The use of land for a farming activity that meets all conditions of Rule 20(a) other than (ii), (iii)(1), (iii)(4) or (iii)(5) or does not meet condition (i) of Rule 20(b) 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; and
 - (ii) the application includes the following material, prepared by a suitably qualified person:
 - (1) an assessment that shows that the annual amount of nitrogen, phosphorus, sediment and microbiological contaminants discharged from the landholding will be no greater than that which was lawfully discharged annually on average for the five years prior to the application being made; and
 - (2) for any mitigation proposed, a detailed mitigation plan (taking into account contaminant loss pathways) that identifies the mitigation or actions to be undertaken including any physical works to be completed, their timing, operation and their potential effectiveness.

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

1. the quality of and compliance with the Farm Environmental Management Plan for the landholding;
 2. whether the assessment undertaken under Rule 20(d)(ii) above takes into account reasonable and appropriate good management practices to minimise the losses of contaminants from the existing farming activity;
 3. 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;
 4. the potential benefits of the activity to the applicant, the community and the environment;
 5. the potential effects of the farming activity on surface and groundwater quality and sources of drinking water;
 6. monitoring and reporting undertaken to assess the effectiveness of any mitigation implemented.
- (e) The use of land for a farming activity that is not specified as a permitted, restricted discretionary or prohibited activity under Rule 20(d) is a discretionary activity.

Rule 25

Amend Rule

Rule 25 – Cultivation

- (a) The use of land for cultivation is a permitted activity provided the following conditions are met:
 - (i) cultivation does not take place within the bed of a lake, river (excluding ephemeral rivers where cultivation is permitted under Rule 20(aa)), artificial watercourse, modified watercourse or natural wetland; and
 - (ii) cultivation does not take place within a distance of \leq 3 metres from the outer edge of the bed of a lake, river (excluding ephemeral rivers where cultivation is permitted under Rule 20(aa)) artificial watercourse, modified watercourse or wetland and
 - (iii) cultivation does not occur at an altitude greater than 800 metres above mean sea level; and
 - (iv) cultivation does not occur on land with a slope greater than ~~20~~ 30 degrees.
 - (v) Minimum tillage cultivation can occur on land between 20 and 30 degrees
- (b) The use of land for cultivation that does not meet the setback distance of Rule 25(a)(ii) is permitted activity provided the following conditions are met:

- (i) cultivation does not take place within the bed of a lake, river (excluding ephemeral rivers where cultivation is permitted under Rule 20(aa)), artificial watercourse, modified watercourse or natural wetland and a distance of 3 metres from the outer edge of the bed;
 - (ii) cultivation does not take place more than once in any 5-year period; and
 - (iii) cultivation is for the purpose of renewing or establishing pasture and is not undertaken to establish a crop used for intensive winter grazing, even as part of a pasture renewal cycle; and
 - (iv) cultivation does not occur at an altitude greater than 800 metres above mean sea level.
- (c) The use of land for cultivation, which does not meet one or more of the conditions of Rule 25(a) or Rule 25(b) is a restricted discretionary activity.

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

1. potential adverse effects of discharges of sediment and other contaminants from critical source areas in the area being cultivated on water quality and biodiversity;
 - 1a. mitigation measures for addressing adverse effects;
 3. monitoring and reporting undertaken to assess the effectiveness of any mitigation implemented.
- (d) Despite any other rule in this Plan, the use of land for cultivation at an altitude greater than 800 metres above mean sea level is a non-complying activity.

Insert new definition of minimum tillage cultivation

Minimum Tillage is a tillage method that does not turn the soil over. It is contrary to intensive tillage, defined as ‘cultivation’, which changes the soil structure.

Rule 35A

Amend Rule to better reflect NES-F to maintain national consistency

Rule 35A – Feed pads/lots

- (a) The use of land for a feed pad/lot is a permitted activity provided the following conditions are met:
- (i) if accommodating cattle, 90% or more of the cattle held in the feedlot must (a) be no more than 4 months old; or (b) weigh no more than 120kg; or for deer, ~~each feed pad/lot services no more than 120 adult cattle, or 250 adult deer, or equivalent numbers of young stock at any one time;~~ and
 - (ii) animals do not remain on the feed pad/lot for longer than ~~three~~ four continuous months; ~~and~~
- (b) The use of land for a feed pad/lot that ~~does~~ meets the following conditions is a discretionary activity provided that the feed pad/lot is located:
- (1) ~~within~~ more than 50 metres from the nearest sub-surface drain, lake, river (excluding ephemeral rivers), artificial watercourse, modified watercourse, natural wetland, or another feed pad/lot on the same landholding; or
 - (2) ~~within~~ outside of a microbial health protection zone of a drinking water supply site identified in Appendix J, or where no such zone is identified, then within 250 metres of the abstraction point of a drinking water supply site identified in Appendix J; or
 - (3) ~~within~~ more than 200 metres ~~of~~ from a place of general assembly or dwelling not located on the same landholding, or
 - (4) ~~within~~ more than 20 metres of the boundary of any other landholding; or
 - (5) ~~within~~ outside of a critical source area; and
- (iv) the feed pad/lot is constructed with:

(1) a sealed and impermeable base of a minimum permeability standard of 10-9 m/s and any liquid animal effluent or stormwater containing animal effluent discharging from the feed pad/lot is collected in a sealed animal effluent storage system authorised under Rule 32B or Rule 32D; or

(2) a minimum depth of 500 millimetres of wood-based material (bark, sawdust or chip) across the base of the feed pad/lot; and

(v) any material scraped from the feed pad/lot, including solid animal effluent, is collected and if applied to land is applied in accordance with Rule 38; and

(vi) the overland flow of stormwater or surface runoff from surrounding land is prevented from entering the feed pad/lot.

(b) The use of land for a feed pad/lot that does not meet the above conditions is a non-complying activity

Rule 52A – Manapōuri Hydro-electric Generation Scheme

Amend Rule to change activity status from controlled to restricted discretionary

(a) Despite any other rules in this Plan, any activity that is part of the Manapōuri hydro-electric generation scheme, for which consent is held and which is the subject of an application for a new consent for the same activity and is:

- i. the taking or use of water; or
- ii. the discharge of water into water or onto or into land; or
- iii. the discharge of contaminants into water or onto or into land; or
- iv. the damming or diversion of water; is a ~~controlled activity~~ restricted discretionary activity provided the following conditions are met:

Add on matter of discretion:

Enhanced flows and other mitigations necessary to ensure the economic sustainability of farming activities in the Waiau catchment

Definition – Cultivation

Insert new definition of minimum tillage cultivation as well as existing wider definition of cultivation.

“Minimum Tillage is a tillage method that does not turn the soil over. It is contrary to intensive tillage, defined as ‘cultivation’, which changes the soil structure”

Definition – Feedpad/feedlot

Insert NES definition of feedlot with Southland amendment for deer, to give effect to the Rule.

feedlot means a stockholding area where cattle and deer—

- (a) are kept for at least 80 days in any 6-month period; and
- (b) are fed exclusively by hand or machine

Insert NES definition of sacrifice paddock:

sacrifice paddock means an area on which—

- (a) cattle are repeatedly, but temporarily, contained (typically during extended periods of wet weather); and
- (b) the resulting damage caused to the soil by pugging is so severe as to require resowing with pasture species

Noting that the fed exclusively by hand or machine definition excludes sacrifice paddocks from being considered as feedlots as sacrifice paddocks involve animals eating crops – not fed exclusively by hand or machine.

Dated this 29th day of October 2021

Peter Wilson
Federated Farmers of New Zealand Inc.