

**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
25 July 2022**

FLETCHER VAUTIER MOORE
LAWYERS
PO BOX 3029
RICHMOND 7050

Solicitor: CP Thomsen & CH Luisetti
Telephone: (03) 543 8301
Email: cthomsen@fvm.co.nz
cluisetti@fvm.co.nz

MAY IT PLEASE THE COURT:

1. In its minute dated 15 July 2022, the Court directed appellants and s 274 parties to file and circulate the final wording sought for provisions of the Proposed Southland Water and Land Plan by 27 July 2022.
2. The final version of the relief sought by B+LNZ is set out in "Appendix A".
3. To assist, counsel has inserted comments in the document to explain, where it might assist, changes to the position taken in opening.



CP Thomsen / CH Luisetti
Counsel for Beef+Lamb New Zealand
25 July 2022

Appendix A

Key

Red – relief being pursued (or supported) by B+LNZ as at 25 July 2022

Red underline – changes to relief that was sought in opening

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;
- ~~2.2a.~~ 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-aquatic** and riparian ecosystems and habitats; **and**
5. showing, in a Farm Environmental Management Plan prepared, certified, implemented and audited in accordance with Appendix N, how 1-4 will be achieved and by when.

Commented [CL1]: Deletion of the number "2a" and continuation of the sequential numbering.

Commented [CL2]: Amendment proposed in evidence by SRC and Ballance.

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) (including an ephemeral river), or~~ modified watercourse, ~~or natural wetland~~ by stock including cattle, deer, pigs or sheep is a prohibited activity.

Commented [CL3]: B+LNZ no longer seeks deletion of *ephemeral river* and proposes that term remain in the rule. It, in effect, now supports the decisions-version.

(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) and 70(cb),~~ is a permitted activity, provided the following conditions are met:

Commented [CL4]: Inclusion to clarify (cb) role in rule cascade.

- (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;~~
 - (A) a Farm Environmental Management Plan for the landholding is prepared, certified and audited in accordance with

Appendix N; and

(B) implemented by the landholder completing the practices, actions, and mitigations specified in the Farm Environmental Management Plan in accordance with the timeframes set out in that Plan;

Commented [CL5]: Amendment proposed in evidence of SRC and Ballance. Supported by B+LNZ.

- (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), 70(cb) 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, or 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 (including open drains) 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, and open drains from 1 July 2022	All water bodies, and open drains over 1 metre wide from 1 July 2022	All water bodies, and open drains where break feeding occurs from 1 July 2022
Beef cattle and deer	All water bodies (including open drains) from 1 July 2025	All water bodies (including open drains) 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 (including open drains) where break feeding or supplementary feeding occurs from 1 July 2022.	

Glossary

Stock unit

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