

**BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I MUA I TE KOOTI TAIAO O AOTEAROA
KI OTAUTAHI**

IN THE MATTER of of the Resource Management Act 1991

AND of an appeal under clause 14 of the First Schedule of the
Act

BETWEEN **ARATIATIA LIVESTOCK LIMITED**
(ENV-2018-CHC-29)

Appellant

AND **SOUTHLAND REGIONAL COUNCIL**

Respondent

**MEMORANDUM ON BEHALF OF ARATIATIA LIVESTOCK LIMITED
31 OCTOBER 2022
TRANCHE 3 – RELIEF REQUESTED**

**ELLIS GOULD
LAWYERS
AUCKLAND**

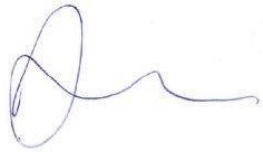
REF: Douglas Allan

**Level 17 Vero Centre
48 Shortland Street, Auckland
Tel: 09 307 2172 / Fax: 09 358 5215
PO Box 1509
DX CP22003
AUCKLAND**

MAY IT PLEASE THE COURT

1. This memorandum is in response to the Court's direction of 27 October 2022 instructing parties to provide by 31 October the final wording sought by them on the Tranche 3 hearing.
2. Aratiatia Livestock Limited seeks the relief with respect to Policy 26, Rule 52A and Appendix E described in the evidence in chief dated 29 July 2022 of Claire Jordan.
3. Aratiatia's preferred provisions are set out in the **attachment** to this memorandum, but it would also accept the alternative forms of wording with respect to these matters that Ms Jordan concludes in her evidence would also be appropriate.

Dated this 31st day of October 2022

A handwritten signature in blue ink, appearing to read 'D A Allan', with a large loop at the start and a trailing line.

D A Allan
Counsel for Aratiatia Livestock Limited

RELIEF SOUGHT BY ARATIATIA LIVESTOCK LIMITED

Policy 26 – Renewable energy

Recognise and provide for:

1. the national and regional significance of renewable electricity generation activities including the practical constraints associated with its development, operation, maintenance and upgrading and the benefits of renewable electricity generation activities; and

2. the national and regional significance including the benefits of renewable electricity generation activities (including the existing Manapōuri hydro-electric generation scheme in the Waiau catchment), the national, regional and local benefits of renewable electricity generation activities, the need to locate the generation activity where the renewable energy resource is available, and the practical constraints associated with its development, operation, maintenance and upgrading, when:

a. allocating surface water for abstraction, damming, diversion and use; and

b. considering all resource consent applications for surface water abstractions, damming, diversion and use;

and while:

(1) safeguarding the mauri and providing for the ecosystem health of the Waiau River, and;

(2) reversing or reducing degradation of the Waiau River as a result of the Manapōuri hydro-electric generation scheme.

Rule 52A – Manapōuri Hydro-electric Generation Scheme

(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 **discretionary** activity.

[Nb: Delete the remaining wording the decisions version of 52A(a).]

[Nb: Delete the current decisions version of 52A(b) and replace it with the following.]

(b) 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;

that does not meet one or more of the following conditions is a **non-complying** activity:

- (1) the application is for the replacement of an expiring resource consent pursuant to section 124 of the Act; and
- (2) where the replacement consent is for the taking or use of water, the rate of take and volume is not increasing, and the use of water is not changing; and
- (3) the application complies with any relevant environmental flows and levels and/or take limit regimes that have been established through an FMU process for the Waiau FMU under the NPSFM 2020; and
- (4) the applicant has requested that the application be publicly notified.

Appendix E – Receiving Water Quality Standards

These standards apply to the effects of discharges following reasonable mixing with the receiving waters, unless otherwise stated. They do not apply to waters within artificial storage ponds such as effluent storage ponds or stock water reservoirs or to temporarily ponded rainfall.

The standard for a given parameter will not apply in a lake, river, artificial watercourse or modified watercourse or natural wetland where:

- ~~(a) due to natural causes, that parameter cannot meet the standard;~~
- ~~or~~
- ~~(b) due to the effects of the operation of the Manapōuri hydro-electric generation scheme that alters natural flows, that parameter cannot meet the standard. ...~~

[Nb: delete item (b) of Appendix E in its entirety.]