

**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)*

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**MEMORANDUM OF COUNSEL FOR SOUTHLAND REGIONAL COUNCIL  
REGARDING THE FIFTH INTERIM DECISION**

**9 February 2023**

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Judicial Officer: Judge Borthwick

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

**GORE DISTRICT COUNCIL, SOUTHLAND DISTRICT  
COUNCIL & INVERCARGILL CITY 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 (**Council**) in response to the Court's Fifth Interim Decision (**Decision**) regarding the appeals on the proposed Southland Water and Land Plan (**pSWLP**).<sup>1</sup>
- 2 The purpose of this Memorandum is to respond to the various directions contained within the Decision and to request a pre-hearing conference be convened on **14 February 2023**.

**Appeals on the Decision**

- 3 Three appeals have been lodged in the High Court regarding the Decision, in respect of Rule 24 of the pSWLP and section 70 of the Resource Management Act 1991 (**RMA**).
- 4 The three appellants are:
  - (a) Federated Farmers;
  - (b) Fonterra Limited and Dairy NZ Limited; and
  - (c) Southland Regional Council.
- 5 In the light of the appeals received, the Council considers that only some of the provisions can be advanced further at this time. In particular, the Council considers that Rules 20, 20A, 20B, 24, 25, and 35B should not be advanced further through the Environment Court until such time as the High Court appeals have been resolved. However, Forest & Bird and Fish & Game consider that all of the provisions can be advanced further, despite the appeals before the High Court.
- 6 Parties' positions on this issue are set out in the appended tables, discussed further below. Given the divergent positions between the parties on this issue, Counsel respectfully seeks a pre-hearing conference.

**Positions of Aratiatia Livestock Limited, Rayonier New Zealand Limited, Beef + Lamb NZ, and Southwood Export Limited**

- 7 Counsel for Aratiatia Livestock Limited (**Aratiatia**) advises that his client will abide the Court's decisions on the Tranche 1 farming provision

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<sup>1</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2022] NZEnvC 265.

matters and proposes not to take any further active part in the hearing process on that aspect of the pSWLP.

- 8 Aratiatia remains involved in the ongoing hearing on Tranche 3 in relation to the Manapouri Hydro-electric Generation Scheme.
- 9 Counsel for Rayonier New Zealand Limited (**Rayonier**) also advised that Rayonier will abide the Court's decision on the Tranche 1 farming provision matters.
- 10 Beef + Lamb NZ do not have an interest from their appeal in the majority of the matters the subject of the Court's directions. The exception to that is the Farm Environment Management Plan (**FEMP**) provisions to the extent they were relied on for its position on Rule 70. It confirms it does not oppose or seek to be heard on those provisions.
- 11 Counsel for Southwood Export Limited has advised that Southwood Export Limited will abide the decision of the Court on Tranche 1.

#### **Directions in the Decision**

- 12 The Decision contains a number of directions for parties to provide further comments on a number of provisions.
- 13 Specifically, the Court directed the Council to consult with the parties and file a memorandum that:<sup>2</sup>
- (a) *seeks process and timetabling directions for all matters identified in this interim decision where responses from parties is directed prior to final determination;*
  - (b) *in relation to those provisions in respect of which the court has made a provisional decision or suggested alternative wording, propose how these are to be resolved. The following options arise. The parties:*
    - (i) *support the court version;*
    - (ii) *request referral of the court version to expert conferencing;*  
*or*

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<sup>2</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2022] NZEnvC 265 at [483].

- (iii) *request the provision be set down for hearing and propose a suitable timetable for evidence exchange.*
  - (c) *identifies which provisions should be settled prior to Appendix N 'sense checking'; and*
  - (d) *indicates whether the preceding matters require a pre-hearing conference to be convened to determine the way forward and if so the proceedings will be set down for a conference on **Tuesday 14 February 2023** in Christchurch (attendance by AVL will be accommodated).*
- 14 The Court also directed the Council to consult with the parties and file a memorandum with a proposal for the sense check of Appendix N: FEMP provisions that:<sup>3</sup>
- (a) *sets a brief;*
  - (b) *provides the names and discipline of proposed review team members. The team is to include, if possible, one or more suitably qualified and experienced Southland farm system advisers and a senior Council consents and compliance officer;*
  - (c) *provides for a suitable facilitator;*
  - (d) *allows, if possible, for Mr McCallum-Clark to be available as a professional resource to explain factual plan and RMA context matters (as opposed to contributing on the merits); and*
  - (e) *a review completion date.*
- 15 In addition, the Court also directed:
- (a) Individual maps to be produced for nitrogen, phosphorus, suspended sediments, MCI (<90) and *E.Coli* together with a single map for all attributes in the new schedule, Schedule X. The maps are to be produced at a resolution of 1:50,000 at which individual properties may be viewed.<sup>4</sup>
  - (b) Parties to advise whether there is scope to:<sup>5</sup>

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<sup>3</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2022] NZEnvC 265 at [485].

<sup>4</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2022] NZEnvC 265 at [84].

<sup>5</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2022] NZEnvC 265 at [231].

- (i) include the same or similar land or percentage area controls as in Rule 20A(a)(i) and (ia) for Rule 20B; and
  - (ii) to include as a standard in Appendix N, setbacks from water bodies for stock types other than cattle.
- (c) Any party arguing in support of the proposition that under the plan provisions, future discharges of contaminants are unlikely to cause a significant adverse effect on aquatic life either by themselves or in combination with the same, similar or other contaminants, to propose timetable directions for the filing of supplementary evidence.<sup>6</sup>
- (d) Parties to advise whether the condition for a permitted activity that a Farm Environmental Management Plan be prepared in accordance with Appendix N applies to Rule 25.<sup>7</sup>
- (e) Parties to advise whether, in relation to Rule 25(b)(iii), it is clearer to amend the rule to say ‘... or on land used for pasture-based wintering, even as part of a pasture renewal cycle’.<sup>8</sup>
- (f) Parties to propose a suitable definition for sacrifice paddocks and confirm whether:<sup>9</sup>
- (i) It is intended that Rule 35B applies to cattle (only)?
  - (ii) The FEMP is to address the use of sacrifice paddocks by all stock or cattle only?
- (g) Parties to consider whether Rule 51(b) and (d) conflict with Rule 51(e), and whether a consequential amendment to Rule 51(b) to delete “Despite any other rule in this Plan” is required.<sup>10</sup>
- (h) Parties to advise whether the terms ‘buffer’ or ‘setback’ should be used in Appendix N.<sup>11</sup>

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<sup>6</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2022] NZEnvC 265 at [279].

<sup>7</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2022] NZEnvC 265 at [313].

<sup>8</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2022] NZEnvC 265 at [314(b)].

<sup>9</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2022] NZEnvC 265 at [375].

<sup>10</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2022] NZEnvC 265 at [397]-[399].

<sup>11</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2022] NZEnvC 265 at [455].

*Comments on provisions the subject of a provisional decision or suggested alternative wording*

- 16 To assist the Court, parties' positions on the various questions posed at paragraph [483] of the Decision are set out in table form. Individual tables have been completed by each party, with the exception of Meridian Energy Limited (**Meridian**), and are enclosed as **Appendix A**. An additional column has been included in the table for parties to identify whether, in the light of the High Court appeals, particular provisions can be advanced.
- 17 Meridian's primary interest in the Decision is in relation to Rule 51(e) of the pSWLP, and Meridian supports the Court's proposed wording in relation to this rule.
- 18 For completeness, while the Dairy Interests do not support the Court version for some of the provisions, this does not reflect a wish to revisit the issue via conferencing, evidence, or a further hearing. The Dairy Interests await the Court's final decision in this regard.

*Appendix N sense check*

- 19 In the Council's Memorandum of 21 July 2022, Anna Wilkes, Cain Duncan, Bernadette Hunt, Sean Wilkins and Bruce Halligan (consents manager at the Council) were identified to participate in the sense check.
- 20 Having now considered the Decision, the Council considers that Hemi Bedggood, a policy planner who works for Environment Southland, should participate in the sense check. Mr Bedggood has previously worked for Environment Canterbury as a consents planner and for industry in the context of farm plans, and is also involved in the Southland pilot scheme regarding farm environment plans.
- 21 No parties have advised additional or alternative attendees for the Appendix N sense check, but counsel are aware that some people are on annual leave and therefore the list of attendees may be subject to change. Ravensdown Limited have advised that either Anna Wilkes (subject to dates), or another appropriately qualified person from Ravensdown, will be available to attend the sense check. The Dairy Interests have confirmed that Cain Duncan remains available (subject to dates) to be involved in the Appendix N 'sense check' process.



- 22 Mr McCallum-Clark will be available to attend the sense check, and the Council is currently making enquiries as to a suitable facilitator. However, the Council and the parties have not yet had the opportunity to discuss a brief for the Appendix N sense check.
- 23 Once a suitable facilitator is identified, and all participants confirmed, the parties will be in a position to advise a review completion date and a brief for the sense check.

*Map production*

- 24 Dr Snelder has the necessary data to produce the maps approved by the Court at paragraph [84] of the Decision, noting the direction for that individual maps to be produced for nitrogen, phosphorus, suspended sediments, MCI (<90) and *E.Coli* together with a single map for all attributes, at a resolution of 1:50,000 at which individual properties may be viewed, with segments of degraded water quality to be distinguished from upstream catchments contributing contaminants.
- 25 The Council is currently making enquiries to engage the services of a consultant who can then use Dr Snelder's data to prepare the maps with GIS mapping. Once the Council has engaged a consultant for this work, the Council will be in a position to advise the Court as to timing.

*Scope – Rule 20A(a)(i) and (ia), Rule 20B and Appendix N standards*

- 26 At paragraph [231] of the Decision, the Court directed parties to advise whether there is scope for the following:
- (a) The inclusion of the same or similar land or percentage area controls in Rule 20B as are in Rule 20A(a)(i) and (ia). The Council considers there is scope to include land or percentage area controls in Rule 20B.
  - (b) The inclusion, as a standard in Appendix N, of setbacks from waterbodies for stock types other than cattle. The Council considers there is likely no scope for such an inclusion.

*Rule 24 – supplementary evidence*

- 27 The Court has given the parties an opportunity to call expert evidence on the likelihood of effects and their significance for aquatic life on the basis

that it is not yet satisfied that it is unlikely that significant adverse effects on aquatic life will result from the discharges.<sup>12</sup>

- 28 In the light of the appeals currently before the High Court regarding Rule 24 of the pSWLP and section 70 of the RMA, the Council does not consider that it is appropriate to advance this issue further at this time. Nor does the Council consider it is appropriate to advance any discussions regarding a controlled activity classification for Rule 24.<sup>13</sup>
- 29 Balance and Ravensdown similarly agree with the Council's position in this regard.

*Rule 25 – permitted activity condition*

- 30 At paragraph [313] of the Decision, the Court directed parties to advise whether, in relation to Rule 25(a) and (b) permitted activities, a condition requiring that a FEMP be prepared in accordance with Appendix N should apply. If so, parties are to consider the Court's wording and respond.
- 31 The Council supports the Court's version of Rule 25, including the addition of a condition to Rule 25(a) and (b) requiring that a FEMP be prepared, if the Court considers that there is scope for that addition.

*Rule 25(b)(iii)*

- 32 The Court asked parties to comment as to whether it is clearer to amend the rule to say '... or on land used for pasture-based wintering, even as part of a pasture renewal cycle'.
- 33 In the Council's 3 August 2022 version of the pSWLP, the phrase '... or on land used for pasture-based wintering' was included in Rule 25. However, following cross-examination, Mr McCallum-Clark acknowledged that as farmers would undertake pasture wintering on established or old pasture, and not cultivate, establish new pasture and then undertake pasture-based wintering activities on that land, Rule 25 did not need to reference '... or on land used for pasture-based wintering'.

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<sup>12</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2022] NZEnvC 265 at [271]-[272].

<sup>13</sup> A number of parties have indicated in the appended tables that certain other provisions should not be further advanced until such time as the High Court appeals have been determined.

- 34 On that basis, the Council’s final version of the pSWLP filed in October 2022, the phrase ‘... or on land used for pasture-based wintering’ was removed.

*Sacrifice paddocks and Rule 35B*

- 35 At paragraph 375 of the Decision, the Court directed the parties to propose a definition of “sacrifice paddock” for inclusion in the pSWLP. The Council, having taken expert advice, proposes the following definition of sacrifice paddock:

***sacrifice paddock*** means an area on which—

*(a) cattle or deer are 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*

- 36 The Court also directed the parties to confirm:
- (a) Whether it is intended that Rule 35B apply to cattle only?
  - (b) Whether the FEMP is to address the use of sacrifice paddocks by all stock, or cattle only?

- 37 With respect to Rule 35B, given the Council’s proposed definition of “sacrifice paddock”, it is the Council’s intention that Rule 35B apply to both cattle and deer.

- 38 At paragraph 377 of the Decision, the Court directed the Council to respond to the Court’s suggested amendment to Appendix N. With respect to the FEMP, the Council considers that overall, the Winter Grazing Plan provisions appear to helpful to manage the effects of sacrifice paddocks. Clause 13(d) is applicable to Intensive Winter Grazing, and possibly pasture-based wintering, but is not appropriate to apply to sacrifice paddocks, especially in respect of deer. Merging clause 13(d) with clause 13(e), may resolve this. Sacrifice paddocks could potentially be included in clause 13(h), to be treated the same as Intensive Winter Grazing, and possibly pasture-based wintering activities.

*Rule 51*

- 39 At paragraph 397 of the Decision, the Court directed the parties to consider whether Rule 51(b) and (d) conflict with the new Rule 51(e). The Council does not consider there is a conflict, as Rule 51(b)(iii) also requires that the diversion is not from any natural wetland.
- 40 The Court also asked parties to consider whether Rule 51(e) should be amended to read, “Notwithstanding Rule 51(b) and Rule 51(d), the diversion of water from a natural wetland for the purpose of land drainage is a non-complying activity.” The Council supports the Court’s suggested wording.
- 41 Further, at paragraph 399 of the Decision, the Court noted that if there was scope to do so, deleting the words “Despite any other rule in this Plan” may put any interpretation/implementation issues with the rules beyond doubt. However, the Council does not consider that there is scope to delete those words.

*Buffer or setback – Appendix N*

- 42 The Court directed parties to advise which term, buffer or setback, ought to be used in Appendix N. The Council considers that the term ‘setback’ should be used. Forest & Bird and Fish & Game similarly agree to the use of the term ‘setback’, as do Ravensdown, Ballance, the Director-General of Conservation, Federated Farmers, and the Dairy Interests.
- 43 Ngā Rūnanga does not have a preference over the use of ‘setback’ or ‘buffer’, but notes ‘setback’ is the more commonly used term in the context of what is being suggested.
- 44 Beef + Lamb NZ do not oppose the replacement of the term ‘buffer’ with ‘setback’ in Appendix N.
- 45 Mr English considers that the term ‘setback’ should be used for Appendix N.

**Ngā Rūnanga – Schedule X**

- 46 At paragraph 81 of the Decision, the Court asked Ngā Rūnanga to propose wording if they wished to pursue the cultural indicators of health and hauora in the context of Schedule X. Counsel for Ngā Rūnanga anticipates being in a position to file a Memorandum regarding the Schedule X matters by Friday 17 February 2023.

### Pre-hearing conference

- 47 In the light of the various parties' positions on the provisions and the High Court appeals, the parties consider that a pre-hearing conference should be convened on **Tuesday 14 February 2023** to determine how the Environment Court process will be progressed in the light of the High Court appeals. In terms of availability constraints, counsel for the Council is available before 1pm, and counsel for Fish & Game and Forest & Bird is available before 2pm.<sup>14</sup> No other counsel have advised of availability constraints.
- 48 Counsel for Mr English and Southwood Export Limited, and counsel for Transpower request that they be excused from attending the pre-hearing conference.

### Directions

- 49 The parties require more time to fully consider and respond to the Council's position with respect to various questions or directions contained in the Decision.
- 50 Accordingly, the parties respectfully request a further reporting date of **Friday, 17 February 2023** to address the following matters:
- (a) The timing of the map production;
  - (b) The preparation of a brief, review completion date, and the appointment of a suitable facilitator for the Appendix N sense check;
  - (c) Parties' responses to the Council's position with respect to the questions or directions of the Court at paragraphs 231, 279, 313, 314, 375, 397-399, and 455; and
  - (d) The position of Ngā Rūnanga with respect to Schedule X.

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<sup>14</sup> For completeness, we note that Mr Mark Christensen is currently on leave, returning to the office on Monday 13 February 2023. It has not been possible to ascertain his availability for Tuesday 14 February 2023.

51 The parties respectfully request that a pre-hearing conference be convened on **Tuesday, 14 February 2023**.

**DATED** this 9<sup>th</sup> day of February 2023

A handwritten signature in blue ink, appearing to read "P. Maw".

.....  
**P A C Maw / I F Edwards**  
Counsel for the Southland Regional Council

## Appendix A – Tables of Provisions and Responses to Court’s Directions

1. Southland Regional Council
2. Ballance
3. Dairy Interests
4. Director-General of Conservation
5. Forest & Bird and Fish & Game
6. Federated Farmers
7. Ngā Rūnanga
8. Ravensdown
9. Transpower
10. Wilkins Farming Limited

Southland Regional Council

<b>Provision</b>	<b>Does the party support the Court Version?</b>	<b>Does the party request referral of the Court Version to expert conferencing?</b>	<b>Does the party request the provision be set down for hearing?</b>	<b>Should the provision be settled prior to Appendix N 'sense checking'?</b>	<b>Is a pre-hearing conference required?</b>	<b>Can the provision be advanced in light of the High Court appeals?</b>
<b>Objective 16</b>	Support the Court Version.	No.	No.	Yes.	No.	Yes.
<b>Policy 16</b>	Support the Court Version.	No.	No.	No.	No.	Yes.
<b>Schedule X</b>	Support the Court Version.	No.	No.	Yes.	No.	Yes.
<b>Policy 28</b>	Support the Court Version.	No.	No.	Yes.	No.	Yes.
<b>Policies 45, 46, and 47</b>	Support the Court Version.	No.	No.	Yes.	No.	Yes.
<b>Rule 20 – Farming</b>	Support the Court Version.	No.	No.	No.	No.	No.
<b>Rule 20A – Intensive Winter Grazing</b>	Support the Court Version.	No.	No.	No.	No.	No.
<b>Rule 20B – Pasture-based wintering</b>	Support the Court Version.	No.	No.	No.	No.	No.
<b>“Pasture-based wintering”</b>	Support the Court Version.	No.	No.	Yes.	No.	Yes.
<b>Rule 25 – Cultivation</b>	Support the Court version.	No.	No.	Yes.	No.	Yes.
<b>Rule 35A – Feed lots/pads</b>	Support the Court Version.	No.	No.	Yes.	No.	Yes.
<b>Rule 35B – Sacrifice paddocks</b>	Support the Court Version.	No.	No.	No.	No.	No.
<b>“Sacrifice Paddock”</b>	Addressed in Memorandum.					



Southland Regional Council

<b>Rule 51 – Minor diversions of water</b>	Support the Court Version.	No.	No.	Yes.	No.	Yes.
<b>“Critical source areas”</b>	Support the Court Version.	No.	No.	Yes.	No.	Yes.
<b>“Ephemeral rivers”</b>	Support the Court Version.	No.	No.	Yes.	No.	Yes.
<b>“Ephemeral flow paths”</b>	Support the Court Version.	No.	No.	Yes.	No.	Yes.
<b>Appendix N – Sacrifice paddocks</b>	Addressed in Memorandum.					

Ballance

<b>Provision</b>	<b>Does the party support the Court Version?</b>	<b>Does the party request referral of the Court Version to expert conferencing?</b>	<b>Does the party request the provision be set down for hearing?</b>	<b>Should the provision be settled prior to Appendix N 'sense checking'?</b>	<b>Is a pre-hearing conference required?</b>	<b>Can the provision be advanced in light of the High Court appeals?</b>
<b>Objective 16</b>						
<b>Policy 16</b>	Yes	No	No	No	No	Yes
<b>Schedule X</b>						
<b>Policy 28</b>						
<b>Policies 45, 46, and 47</b>	Yes	No	No	Yes	No	Yes
<b>Rule 20 – Farming</b>	Yes	No	No	No	No	No (though interested in views of others)
<b>Rule 20A – Intensive Winter Grazing</b>						
<b>Rule 20B – Pasture-based wintering</b>						
<b>“Pasture-based wintering”</b>						
<b>Rule 25 – Cultivation</b>						
<b>Rule 35A – Feed lots/pads</b>						
<b>Rule 35B – Sacrifice paddocks</b>						
<b>“Sacrifice Paddock”</b>						
<b>Rule 51 – Minor diversions of water</b>						
<b>“Critical source areas”</b>	Yes	No	No	Yes	No	Yes

Ballance

<b>“Ephemeral rivers”</b>	Yes	No	No	Yes	No	Yes
<b>“Ephemeral flow paths”</b>	Yes	No	No	Yes	No	Yes
<b>Appendix N – Sacrifice paddocks</b>						

Dairy Interests' responses 9 February 2023

<b>Provision</b>	<b>Does the party support the Court Version?</b>	<b>Does the party request referral of the Court Version to expert conferencing?</b>	<b>Does the party request the provision be set down for hearing?</b>	<b>Should the provision be settled prior to Appendix N 'sense checking'?</b>	<b>Is a pre-hearing conference required?</b>	<b>Can the provision be advanced in light of the High Court appeals?</b>
<b>Objective 16</b>	Yes	No	No	Yes	No	Yes
<b>Policy 16</b>	No	No	No	No	No	Yes
<b>Schedule X</b>	No	No	No	No	No	Yes
<b>Policy 28</b>						
<b>Policies 45, 46, and 47</b>	Yes	No	No	Yes	No	Yes
<b>Rule 20 – Farming</b>	No	No	No	No	No	No
<b>Rule 20A – Intensive Winter Grazing</b>	No	No	No	No	No	No
<b>Rule 20B – Pasture-based wintering</b>	No	No	No	No	No	No
<b>“Pasture-based wintering”</b>	Yes	No	No	Yes	No	Yes
<b>Rule 25 – Cultivation</b>	No	No	No	No	No	No
<b>Rule 35A – Feed lots/pads</b>	Yes	No	No	Yes	No	Yes
<b>Rule 35B – Sacrifice paddocks</b>	Interested in issue	No	No	No	No	No
<b>“Sacrifice Paddock”</b>	Interested in issue	No	No	Yes	No	Yes
<b>Rule 51 – Minor diversions of water</b>						
<b>“Critical source areas”</b>	No	No	No	Yes	No	Yes

Dairy Interests' responses 9 February 2023

<b>“Ephemeral rivers”</b>	Yes	No	No	Yes	No	Yes
<b>“Ephemeral flow paths”</b>	Yes	No	No	Yes	No	Yes
<b>Appendix N – Sacrifice paddocks</b>	Interested in issue	No	No	N/A	No	Yes

Director-General of Conservation

<b>Provision</b>	<b>Does the party support the Court Version?</b>	<b>Does the party request referral of the Court Version to expert conferencing?</b>	<b>Does the party request the provision be set down for hearing?</b>	<b>Should the provision be settled prior to Appendix N 'sense checking'?</b>	<b>Is a pre-hearing conference required?</b>	<b>Can the provision be advanced in light of the High Court appeals?</b>
<b>Objective 16</b> [420]	Yes	No	No	Yes	No	Yes
<b>Policy 16 [83], [228]</b>	Yes	No	No	No	No	Yes
<b>Schedule X</b> [84]	Yes	No	No	Yes	No	Yes
<b>Policy 28</b> [402]	Yes	No	No	Yes	No	Yes
<b>Policies 45, 46, and 47</b> [403]	Yes	No	No	Yes	No	Yes
<b>Rule 20 – Farming</b> [102], [229]	Yes	No	No	No	No	Yes
<b>Rule 20A – Intensive Winter Grazing</b> [171]	Yes	No	No	No	No	Yes
<b>Rule 20B – Pasture-based wintering</b> [206-207]	Yes, noting Director-General is not a party to appeals concerning separate rule for Pasture Based Wintering and abides the Court's decision					
<b>“Pasture-based wintering”</b> [227], [230]	Yes, noting Director-General is not a party to appeals concerning separate rule for Pasture Based Wintering and abides the Court's decision					
<b>Rule 25 – Cultivation</b> [307]	Yes	No	No	Yes	No	Yes
<b>Rule 35A – Feed lots/pads</b> [328]	Yes, noting Director-General is not a party to appeals concerning Rules 35A and new 35B and abides the Court's decision					

Director-General of Conservation

<b>Provision</b>	<b>Does the party support the Court Version?</b>	<b>Does the party request referral of the Court Version to expert conferencing?</b>	<b>Does the party request the provision be set down for hearing?</b>	<b>Should the provision be settled prior to Appendix N 'sense checking'?</b>	<b>Is a pre-hearing conference required?</b>	<b>Can the provision be advanced in light of the High Court appeals?</b>
<b>Rule 35B – Sacrifice paddocks</b>	Yes, noting Director-General is not a party to appeals concerning Rules 35A and new 35B and abides the Court's decision					
<b>“Sacrifice Paddock”</b> [187], [375]	Yes, noting Director-General is not a party to appeals concerning Rules 35A and new 35B and abides the Court's decision					
<b>Rule 51 – Minor diversions of water</b> [391], [397]	Yes	No	No	Yes	No	Yes
<b>“Critical source areas”</b> [422]	Yes	No	No	Yes	No	Yes
<b>“Ephemeral rivers”</b> [ 416], [420] and footnote 321	Yes	No	No	Yes	No	Yes
<b>“Ephemeral flow paths”</b> [423]	Yes	No	No	Yes	No	Yes
<b>Appendix N – Sacrifice paddocks</b> [374]	Yes, noting Director-General is not a party to appeals concerning feedpads/ feedlots and sacrifice paddocks and abides the Court's decision					

<b>Provision</b>	<b>Does the party support the Court Version?</b>	<b>Does the party request referral of the Court Version to expert conferencing?</b>	<b>Does the party request the provision be set down for hearing?</b>	<b>Should the provision be settled prior to Appendix N 'sense checking'?</b>	<b>Is a pre-hearing conference required?</b>	<b>Can the provision be advanced in light of the High Court appeals?</b>
<b>Objective 16</b>	Yes	No	No	Yes	No	Yes
<b>Policy 16</b>	Yes	No	No	No	No	Yes
<b>Schedule X</b>	Yes	No	No	Yes	No	Yes
<b>Policy 28</b>	Yes	No	No	Yes	No	Yes
<b>Policies 45, 46, and 47</b>	Yes	No	No	Yes	No	Yes
<b>Rule 20 – Farming</b>	Yes	No	No	Yes	No	Yes
<b>Rule 20A – Intensive Winter Grazing</b>	Yes	No	No	Yes	No	Yes
<b>Rule 20B – Pasture-based wintering</b>	Yes	No	No	Yes	No	Yes
<b>“Pasture-based wintering”</b>	Yes	No	No	Yes	No	Yes
<b>Rule 25 – Cultivation</b>	Yes	No	No	Yes	No	Yes
<b>Rule 35A – Feed lots/pads</b>	Yes	No	no	Yes	No	Yes
<b>Rule 35B – Sacrifice paddocks</b>	Yes	No	No	Yes	No	Yes
<b>“Sacrifice Paddock”</b>	Yes	No	No	No	No	Yes
<b>Rule 51 – Minor diversions of water</b>	Yes	No	No	No	No	Yes
<b>“Critical source areas”</b>	Yes	No	No	Yes	No	Yes
<b>“Ephemeral rivers”</b>	Yes	No	No	Yes	No	Yes



Royal Forest and Bird Protection Society  
Southland Fish and Game Council

<b>“Ephemeral flow paths”</b>	Yes	No	No	Yes	No	Yes
<b>Appendix N – Sacrifice paddocks</b>	Yes, subject to outcomes of sense check.	No	No	n/a	No	Yes

Federated Farmers

<b>Provision</b>	<b>Does the party support the Court Version?</b>	<b>Does the party request referral of the Court Version to expert conferencing?</b>	<b>Does the party request the provision be set down for hearing?</b>	<b>Should the provision be settled prior to Appendix N 'sense checking'?</b>	<b>Is a pre-hearing conference required?</b>	<b>Can the provision be advanced in light of the High Court appeals?</b>
<b>Objective 16</b>						
<b>Policy 16</b>						
<b>Schedule X</b>						
<b>Policy 28</b>						
<b>Policies 45, 46, and 47</b>						
<b>Rule 20 – Farming</b>	Yes	No	No	Interested in views of others	No	Yes
<b>Rule 20A – Intensive Winter Grazing</b>	Yes	No	No	Interested in views of others	No	Yes
<b>Rule 20B – Pasture-based wintering</b>	Yes	No	No	Interested in views of others	No	Yes
<b>“Pasture-based wintering”</b>	Yes	No	No	Interested in views of others	No	Yes
<b>Rule 25 – Cultivation</b>	Yes	No	No	Interested in views of others	No	Yes
<b>Rule 35A – Feed lots/pads</b>	Yes	No	No	Interested in views of others Interested in views of others	No	Yes
<b>Rule 35B – Sacrifice paddocks</b>	Yes	No	No	Interested in views of others	No	Yes
<b>“Sacrifice Paddock”</b>	Interested in issue	No Court version	Not at this point	Interested in views of others	No	Yes
<b>Rule 51 – Minor diversions of water</b>						
<b>“Critical source areas”</b>						

Federated Farmers

<b>“Ephemeral rivers”</b>						
<b>“Ephemeral flow paths”</b>						
<b>Appendix N – Sacrifice paddocks</b>	Interested in issue	No Court version	Not at this point	Interested in views of others	No	Yes

Ngā Rūnanga

<b>Provision</b>	<b>Does the party support the Court Version?</b>	<b>Does the party request referral of the Court Version to expert conferencing?</b>	<b>Does the party request the provision be set down for hearing?</b>	<b>Should the provision be settled prior to Appendix N 'sense checking'?</b>	<b>Is a pre-hearing conference required?</b>	<b>Can the provision be advanced in light of the High Court appeals?</b>
<b>Objective 16</b>	Yes	No	No	Yes	No	Yes
<b>Policy 16</b>	Yes	No	No	No	No	Yes
<b>Schedule X</b>	See attached statement	No	No	Yes	No	Yes
<b>Policy 28</b>	Yes	No	No	Yes	No	Yes
<b>Policies 45, 46, and 47</b>	Yes	No	No	Yes	No	Yes
<b>Rule 20 – Farming</b>	Yes	No	No	No	No	Yes
<b>Rule 20A – Intensive Winter Grazing</b>	Yes	No	No	No	No	Yes
<b>Rule 20B – Pasture-based wintering</b>	Yes	No	No	No	No	Yes
<b>“Pasture-based wintering”</b>	Yes	No	No	Yes	No	Yes
<b>Rule 25 – Cultivation</b>	Yes	No	No	Yes	No	Yes
<b>Rule 35A – Feed lots/pads</b>	Yes	No	No	Yes	No	Yes
<b>Rule 35B – Sacrifice paddocks</b>	Yes	No	No	No	No	Yes
<b>“Sacrifice Paddock”</b>	Yes	No	No	No	No	Yes
<b>Rule 51 – Minor diversions of water</b>	Yes	No	No	Yes	No	Yes
<b>“Critical source areas”</b>	Yes	No	No	Yes	No	Yes

Ngā Rūnanga

<b>“Ephemeral rivers”</b>	Yes	No	No	Yes	No	Yes
<b>“Ephemeral flow paths”</b>	Yes	No	No	Yes	No	Yes
<b>Appendix N – Sacrifice paddocks</b>	Yes, subject to outcomes of sense check.	No	No	-	No	Yes

Ravensdown

<b>Provision</b>	<b>Does the party support the Court Version?</b>	<b>Does the party request referral of the Court Version to expert conferencing?</b>	<b>Does the party request the provision be set down for hearing?</b>	<b>Should the provision be settled prior to Appendix N ‘sense checking’?</b>	<b>Is a pre-hearing conference required?</b>	<b>Can the provision be advanced in light of the High Court appeals?</b>
<b>Objective 16</b>	N/A – Ravensdown is not a party to this provision.					
<b>Policy 16</b>	Support the Court Version	No	No	No	No	Yes
<b>Schedule X</b>	N/A – Ravensdown is not a party to this provision.					
<b>Policy 28</b>	N/A – Ravensdown is not a party to this provision.					
<b>Policies 45, 46, and 47</b>	Support the Court Version of Policies 45 and 47 (Ravensdown was not a party to Policy 46)	No	No	Yes	No	Yes
<b>Rule 20 – Farming</b>	Support the Court Version	No	No	No	No	No
<b>Rule 20A – Intensive Winter Grazing</b>	N/A – Ravensdown is not a party to this provision.					
<b>Rule 20B – Pasture-based wintering</b>	N/A – Ravensdown is not a party to this provision.					
<b>“Pasture-based wintering”</b>	N/A – Ravensdown is not a party to this provision.					
<b>Rule 25 – Cultivation</b>	N/A – Ravensdown is not a party to this provision.					

Ravensdown

<b>Provision</b>	<b>Does the party support the Court Version?</b>	<b>Does the party request referral of the Court Version to expert conferencing?</b>	<b>Does the party request the provision be set down for hearing?</b>	<b>Should the provision be settled prior to Appendix N 'sense checking'?</b>	<b>Is a pre-hearing conference required?</b>	<b>Can the provision be advanced in light of the High Court appeals?</b>
<b>Rule 35A – Feed lots/pads</b>	N/A – Ravensdown is not a party to this provision.					
<b>Rule 35B – Sacrifice paddocks</b>	N/A – Ravensdown is not a party to this provision.					
<b>“Sacrifice Paddock”</b>	N/A – Ravensdown is not a party to this provision.					
<b>Rule 51 – Minor diversions of water</b>	N/A – Ravensdown is not a party to this provision.					
<b>“Critical source areas”</b>	Support the Court Version	No	No	Yes	No	Yes
<b>“Ephemeral rivers”</b>	Support the Court Version	No	No	Yes	No	Yes
<b>“Ephemeral flow paths”</b>	Support the Court Version	No	No	Yes	No	Yes
<b>Appendix N – Sacrifice paddocks</b>	N/A – Ravensdown is not a party to this specific provision of the appendix.					

Transpower

<b>Provision</b>	<b>Does the party support the Court Version?</b>	<b>Does the party request referral of the Court Version to expert conferencing?</b>	<b>Does the party request the provision be set down for hearing?</b>	<b>Should the provision be settled prior to Appendix N 'sense checking'?</b>	<b>Is a pre-hearing conference required?</b>	<b>Can the provision be advanced in light of the High Court appeals?</b>
<b>Objective 16</b>						
<b>Policy 16</b>						
<b>Schedule X</b>						
<b>Policy 28</b>	Support the Court Version.	No.	No.	Yes.	No.	Yes.
<b>Policies 45, 46, and 47</b>						
<b>Rule 20 – Farming</b>						
<b>Rule 20A – Intensive Winter Grazing</b>						
<b>Rule 20B – Pasture-based wintering</b>						
<b>“Pasture-based wintering”</b>						
<b>Rule 25 – Cultivation</b>						
<b>Rule 35A – Feed lots/pads</b>						
<b>Rule 35B – Sacrifice paddocks</b>						
<b>“Sacrifice Paddock”</b>						
<b>Rule 51 – Minor diversions of water</b>						
<b>“Critical source areas”</b>						



<b>“Ephemeral rivers”</b>						
<b>“Ephemeral flow paths”</b>						
<b>Appendix N – Sacrifice paddocks</b>						

<b>Provision</b>	<b>Does the party support the Court Version?</b>	<b>Does the party request referral of the Court Version to expert conferencing?</b>	<b>Does the party request the provision be set down for hearing?</b>	<b>Should the provision be settled prior to Appendix N 'sense checking'?</b>	<b>Is a pre-hearing conference required?</b>	<b>Can the provision be advanced in light of the High Court appeals?</b>
<b>Objective 16</b>						
<b>Policy 16</b>						
<b>Schedule X</b>						
<b>Policy 28</b>						
<b>Policies 45, 46, and 47</b>						
<b>Rule 20 – Farming</b>	Yes	No	No	Abide others	No	Yes
<b>Rule 20A – Intensive Winter Grazing</b>	Yes	No	No	Abide others	No	Yes
<b>Rule 20B – Pasture-based wintering</b>	Yes	No	No	Abide others	No	Yes
<b>“Pasture-based wintering”</b>	Yes	No	No	Abide others	No	Yes
<b>Rule 25 – Cultivation</b>						
<b>Rule 35A – Feed lots/pads</b>						
<b>Rule 35B – Sacrifice paddocks</b>						
<b>“Sacrifice Paddock”</b>						
<b>Rule 51 – Minor diversions of water</b>						
<b>“Critical source areas”</b>						
<b>“Ephemeral rivers”</b>						

Wilkins

<b>“Ephemeral flow paths”</b>						
<b>Appendix N – Sacrifice paddocks</b>						