

**IN THE ENVIRONMENT COURT  
AT CHRISTCHURCH  
I TE KŌTI TAIAO O AOTEAROA  
KI ŌTAUTAHI**

IN THE MATTER of the Resource Management Act 1991

AND of appeals under clause 14 of the First  
Schedule of the Act

BETWEEN ARATIATIA LIVESTOCK  
LIMITED

(ENV-2018-CHC-29)

(and all other appellants listed in the  
Schedule attached)

AND SOUTHLAND REGIONAL  
COUNCIL

Respondent

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**MINUTE OF THE ENVIRONMENT COURT**

**Policy 16 and Appendix N  
(19 July 2022)**

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[1] This Minute is issued for the purpose of case management and our purpose is to seek clarification of Policy 16 and Appendix N.

[2] Until recently, the court had read cl 6(b) as applying to the degraded segment. Upon reflection, that reading was probably incorrect. Answers to the following questions will inform the court's decisions on water quality and the plan(s) for inclusion in Schedule X (which is itself a method to implement policies) and may assist parties and the planners in finalising the drafting

[3] In relation to cl 6(b) of Appendix N, Pt B:

pSWLP – POLICY 16 AND APPENDIX N – MINUTE 19 JULY 2022



- (a) what is to be improved; is it:
- (i) the (degraded) waterbody;
  - (ii) the (degraded) segment of the waterbody; or
  - (iii) the catchment?
- (b) what is the trigger that is spoken about; is it:
- (i) a farming activity;
  - (ii) the contaminants;
  - (iii) the inclusion of the catchment in Schedule X?
- (c) what is to be reduced; is it
- (i) nitrogen, phosphorus, sediment and microbial contaminants (all four); or
  - (ii) one or more of the above contaminants depending on the reason for finding that a waterbody is degraded and in need of improvement?<sup>1</sup>
    - Note: when considering the above, the following question at [3(d)(iv)] is important.
- (d) in relation to the plan(s) to be produced in Schedule X:
- (i) confirm the content and resolution of the plan(s):
    - will a landholding be identifiable in a Schedule X catchment?<sup>2</sup>
  - (ii) what information will the plan(s) contain?
  - (iii) will the Schedule contain layered plans for contaminants of interest?
  - (iv) using estuaries as an example, will the plan (including layered plans (if proposed)), map nitrogen or map total nitrogen; map phosphorus or map total phosphorus?
    - is the plan readership – particularly farmers and farm systems advisors – relevant a decision whether to map

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<sup>1</sup> Microbial contaminants is not presently included in 6(b) and may not be relevant to ‘aquatic ecosystem health’ as conceived by Dr Depree;

<sup>2</sup> By ‘Schedule X catchment’ here and elsewhere we mean a catchment containing a (degraded) waterbody that is in need of improvement.

nitrogen or total nitrogen; phosphorus or total phosphorus?

- (v) if it is proposed to have plans sitting outside of the pSWLP, what information will those plans contain?

**Policy 16(b) and (ba)/Appendix N, cl 6**

[4] We observe that the two provisions have a different structure. Whereas Policy 16(b) and (ba) deal with activities,<sup>3</sup> Appendix N, cl 6 provisions are loosely differentiated by the location of a farm in a Schedule X catchment. Presently, the two provisions do not align well.<sup>4</sup>

[5] It is not essential that the two provisions adopt the same structure, but it is essential that the policy is implemented by the methods (including any applicable rules).

[6] We raise these matters early to seek the parties' assistance in relation to the same and lend efficiency to the hearing process. Unless requested, we do not intend to give directions at this juncture.

Jane S.

**J E Borthwick**  
**Environment Judge**

Issued: 19 July 2022



<sup>3</sup> Existing farming and dairy plus IWG.

<sup>4</sup> For example, the Policy 16(ba)(i) requirement that dairy and IWG not increase contaminants is not implemented by Appendix N, Pt B either by way of a new FEMP objective for or by cl 6. On our reading cl 6 employs the terms 'managed and mitigated' and 'a reduction' but does not close out the possibility that these actions can be taken after contaminants are increased. By way of a second example, is it intended that the policy to reduce adverse effects (Policy 16(b)(ii)) is to apply to both existing farming as per the policy or to all activities including dairy and IWG as required by cl 6(a)? Is it intended that the policy requirement to reduce effects apply only to existing farming activities in Schedule X catchments (Policy 16(b)(ii)) or to all farming activities including those not in Schedule X (cl 6(a))?

### Schedule – List of appellants

ENV-2018-CHC-26	Transpower New Zealand Limited
ENV-2018-CHC-27	Fonterra Co-operative Group Limited
ENV-2018-CHC-29	Aratiatia Livestock Limited
ENV-2018-CHC-30	Wilkins Farming Co Limited
ENV-2018-CHC-31	Gore District Council & others
ENV-2018-CHC-32	DairyNZ Limited
ENV-2018-CHC-33	H W Richardson Group Limited
ENV-2018-CHC-34	Beef + Lamb New Zealand
ENV-2018-CHC-36	Director-General of Conservation
ENV-2018-CHC-37	Southland Fish and Game Council
ENV-2018-CHC-38	Meridian Energy Limited
ENV-2018-CHC-40	Federated Farmers of New Zealand (Southland Province) Inc
ENV-2018-CHC-44	Wilkins Farming Co Limited (previously Campbell's Block Limited)
ENV-2018-CHC-45	Wilkins Farming Co Limited (previously Robert Grant)
ENV-2018-CHC-46	Southwood Export Limited & Others
ENV-2018-CHC-47	Te Rūnanga o Ngāi Tahu, Hokonui Rūnaka, Waihopai Rūnaka, Te Rūnanga o Awarua & Te Rūnanga o Oraka Aparima
ENV-2018-CHC-49	Rayonier New Zealand Limited
ENV-2018-CHC-50	Royal Forest and Bird Protection Society of New Zealand Incorporated