

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

IN THE MATTER of the Resource Management Act 1991

AND 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)

Appellants

AND SOUTHLAND REGIONAL  
COUNCIL

Respondent

Before: Environment Judge J E Borthwick

Held: in Christchurch on 1 March 2023 at 9 am

Appearances: P A C Maw and I F Edwards for Southland Regional Council  
L Jeffries for Ballance Agri-Nutrients Limited  
K E Forward for the Dairy Interests  
P D Williams for Director-General of Conservation  
Tumuaki-Ahurei  
B S Carruthers and M Campbell for Federated Farmers of New  
Zealand Inc and Wilkins Farming Company Limited  
S R Gepp for Royal Forest and Bird Protection Society of New  
Zealand Inc and the Southland Fish and Game Council  
S K Lennon for Ngā Rūnanga  
M R G Christensen for Ravensdown Limited  
D A Allan for Aratiatia Livestock Limited  
C P Thomsen for Beef + Lamb New Zealand Limited



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## RECORD OF PRE-HEARING CONFERENCE

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### **Introduction**

[1] Following the release of the fifth Interim Decision, a second pre-hearing conference was held for the purpose of case management on 1 March 2023.

### **Stay of proceedings**

[2] The Regional Council has filed an application for stay of proceedings; the application is unopposed.

[3] As indicated, the court will grant the application with a decision to be released next week.

### **Appendix N: FEMP**

[4] A sense check is to be undertaken on Appendix N: FEMP.

[5] The Regional Council, having conferred with the parties, will file a memorandum proposing further directions (if any) and attaching a brief to be provided to the persons participating in the sense check of the FEMP. The Regional Council is to provide a scribe.

[6] The sense check is to be completed within six weeks of the pre-hearing conference, and a Joint Witness Statement filed the week thereafter.

[7] The Registry will liaise with parties in relation to the resumed hearing, on or after 24 April 2023.

[8] As the Joint Witness Statement is evidence, all participants are to attend court. Other than in relation to any pre-conference session between participating

persons, attendance in person at the conference is required.

### **Appendix N: FEMP - sacrifice paddocks**

[9] At this pre-hearing conference, the Regional Council stated its support for an amendment proposed by the court and set out in the Record of Pre-Hearing Conference held on 14 February 2023. The amendment to cl 13(d) reads:

- (a) excluding sacrifice paddocks, confirm how the following practices are to be implemented:
  - (i) downslope grazing or a 20m 'last-bite' vegetated strip at the base of the slope; and
  - (ii) back fencing to prevent stock entering previously grazed areas.

[10] The Regional Council is yet to clarify its thinking on this matter and secondly, indicate whether the FEMP's Winter Grazing Plan provisions at cl 13 should include a sacrifice paddock provision requiring the identification of paddocks to be resown after grazing, and when this is to occur, weather permitting?

[11] Further, Federated Farmers signals there may be other changes to this provision generally that may be usefully discussed.

[12] All interested parties are to confer on whether amendments are required in relation to the treatment of sacrifice paddocks in Appendix N. If the resolution of this topic is not agreed, then directions are to be proposed.

[13] Note: the court will not extend the direction that the sense check on Appendix N must be completed within six weeks. The parties have had ample time to confer in relation to these matters.

## **The Regional Council's responses to certain paragraphs**

[14] Parties have now responded to the Regional Council's memorandum dated 13 February 2023.

### ***Rule 20B***

[15] No party proposes that Rule 20B includes an area limit.

### ***Rule 25***

[16] An amendment to Rule 25(a) is required to make clear that a FEMP is to be prepared. No party has opposed the amendment suggested by the court.

[17] The Regional Council is to identify scope for the same; any party opposing the amendment being made on the grounds that there is no scope will file a memorandum advising the court. Further directions will be made.

### ***Rule 51***

[18] The Director-General does not consider the court's proposed amendment to Rule 51(d) necessary. That is because natural wetlands are excluded from Rule 51(b)(iii).

[19] Any party that initially supported the proposed amendment, is to advise whether they continue to do so.

### ***Rule 29***

[20] We noted a correction to Rule 29 is required for the reasons set out by Ngā Rūnanga in its memorandum. This will be addressed in the next decision.

### **Definition of ‘natural wetland’ and ‘stock unit’**

[21] No party is proposing changes to the definition of ‘natural wetland’.

[22] No party opposes the inclusion of the definition of ‘stock unit’ proposed by Beef and Lamb.

### **Other matters**

[23] Other matters addressed by the Regional Council in its reporting memorandum dated 13 February 2023, and by the other parties in response, will be addressed in the next decision.

### **Final directions**

[24] Final orders are required to the effect that the Regional Council amends its Plan.

[25] Mr Maw advises that there may be a timing and sequencing issue arising in relation to anticipated regulations around freshwater management plans. He was circumspect as to the content of those regulations and unclear as to its timing.

[26] All parties will address the court on the orders sought (and the timing these are to be given effect) when the hearing resumes. If the court needs to go into a closed session to receive submissions concerning the government’s legislative programme, it will do so.

### **Directions**

[27] I direct:

- (a) by **Monday 6 March 2023** the Regional Council, having conferred with the other parties, will file a memorandum responding in detail to the above matters proposing directions where required; and

- (b) all other parties are to respond on specific provisions (as discussed above).

Jane S.



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

Issued: 3 March 2023

### 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 Inc
ENV-2018-CHC-41	Heritage New Zealand Pouhere Taonga
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 Runāka, Waihopai Runāka, 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

