

**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)

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**WILL SAY STATEMENT OF MATTHEW MCCALLUM-CLARK ON BEHALF
OF SOUTHLAND REGIONAL COUNCIL IN ANTICIPATION OF EXPERT
CONFERENCING**

PLANNING

11 November 2021

Judicial Officer: Judge Borthwick

Respondent's Solicitor
PO Box 4341 CHRISTCHURCH 8140
DX WX11179
Tel +64 3 379 7622
Fax +64 379 2467

WYNNWILLIAMS

Solicitor: P A C Maw
(philip.maw@wynnwilliams.co.nz)

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

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

**GORE DISTRICT COUNCIL, SOUTHLAND DISTRICT
COUNCIL & INVERCARGILL DISTRICT 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

Introduction, qualifications and experience

- 1 My name is Matthew Eaton Arthur McCallum-Clark. My qualifications and experience are set out in full in my evidence in chief, dated 22 October 2021.

Code of conduct

- 2 I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and agree to comply with it. The contents of this statement are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this statement.

Scope of will say statement

- 3 I have prepared this will say statement in anticipation of facilitated expert conferencing.
- 4 This statement addresses the Council's preferred "tracked changes" relief, prepared in response to the tracked changes relief provided by the parties on 29 October 2021. A table showing which parties have lodged relief for each provision is attached as **Annexure 1**. Specifically, this statement addresses:
 - (a) Topic B2 – Discharges;
 - (b) Topic B4 – Beds of lakes and Rivers;
 - (c) Topic B5 – Farming;
 - (d) Topic B6 – Infrastructure.
- 5 This statement also addresses how the proposed relief implements the relevant objectives and policies.¹

Topic B2 – Discharges

- 6 The majority of the relief in Council's tracked changes (Policies 13, 15A and 15B, Rules 5 and 15, and much of Appendix E) are as per relief previously agreed between the parties. As this relief will be sought by way of consent orders, I will not be addressing it in my evidence.

¹ See paragraph [11] of the Record of Pre-hearing Conference Timetable Directions (Topic B) dated 22 October 2021.

Policy 15C

- 7 I consider this policy should be deleted. In coming to this view, I largely agree with the comment of Treena Davidson for Ngā Rūnanga, that while Policy 15C implements Objectives 6 and 7, it is unnecessary to have this provision. The NPSFM 2020 National Objectives Framework (**NOF**) process will provide direction on how specific water bodies are maintained or improved.

Rule 13

- 8 The relief sought by Council is largely as per parties' agreed changes circulated 29 October 2021. The Dairy Interests² sought a change to the clarity clause, which is, in my opinion, arguably more aligned with the Fish and Game appeal point to include Appendix E standards, and with Appendix E itself. In my opinion it is difficult to justify why discharges managed by Rule 13 should need to meet a higher standard than other point source discharges. However, I do not have a strong preference between the two alternative drafting options for this rule. In both cases, I consider the changes to the rule are a substantial improvement towards giving effect to Objectives 2 and 6, as they will require discharges from land drainage systems to meet minimum standards with respect to sedimentation of receiving waterbodies.

Appendix E

- 9 The relief sought by Council on clause (b) of Appendix E is based on relief sought by Meridian Energy, but is more confined and certain. Meridian Energy seek that activities ancillary to maintenance and operation are also excluded from Appendix E and unqualified use of the term 'temporary'. As these terms would be effectively used to determine activity status, Council prefers more specific criteria. In general, the reduction in types and duration of discharges that are exempted from Appendix E are more aligned with Objectives 6 and 9, while still providing for the maintenance of infrastructure (Objective 9B and 10).

² DairyNZ Limited and Fonterra Co-operative Group.

Topic B4 – Beds of Lakes and Rivers

Rule 78

- 10 The relief sought by Council on Rule 78 is largely aligned with that of the Director-General, Fish and Game, and Forest and Bird. However, it does not seek protection of locations where ‘threatened native fish’ are present, as sought by Ngā Rūnanga and Forest and Bird. Council is not necessarily opposed to that, but does not understand the spatial extent of this area, or have a map layer available. Should Forest and Bird or Ngā Rūnanga provide such a map, Council would consider that.
- 11 The Council’s drafting provides a maximum proportion of gravel (>2mm) that can be removed. Given the inclusion of a 2mm particle size threshold in the body of the rule, I consider no definition changes are necessary.
- 12 I consider that this revision to the rule is more aligned with Objectives 2, 6, and 14, and Policy 30 as it provides for the health and wellbeing of people, limits effects on waterbodies and habitat, and still enables lower-risk drainage maintenance. The protection of taonga species, as sought by Ngā Rūnanga and Objective 15, could still be improved.

Topic B5 – Farming

General Approach

- 13 The Council’s preferred relief for the farming provisions include a wide range of recommended changes to the policies, rules, and Appendix N. These changes are an integrated package, and the main features are:
- (a) Strengthening and improved cohesion of the policies, such that there is clearer direction for farming activities, particularly where water quality is degraded;
 - (b) The identification of where water quality is degraded, in a new “Schedule X” as proposed by Fish and Game, Forest and Bird, and the Dairy Interests (the specific content of which will require further conferencing of the science experts);
 - (c) All farming activities to have and implement a stringent, and audited, farm environment plan that also responds to the needs of the wider catchment – Good Management Practices alone are not signalled as a default;

- (d) A range of improvements to specific provisions, such as set-backs, slope thresholds, wetland protection, and critical source area management that will collectively result in a reduction of risk of contaminant loss; and
 - (e) A more stringent consenting threshold for new or expanded dairy farming and intensive winter grazing.
- 14 The Council's preferred relief does not introduce a resource consent requirement for all farming in catchments with degraded water quality as sought by Fish and Game and Forest and Bird. This is for two reasons. First, the Council considers that the NPSFM sets out a process in the NOF, which the Council has substantially underway, that is a more appropriate way of addressing resource consent requirements. Secondly, realistically it will take several years for such a consenting framework to be implemented, by which time Council will have completed its NOF process. If all farmers hold consents, it will inevitably further delay implementation of the outcomes of the NOF process, and those consents may even have directed actions and investment that are misplaced.

Ephemeral Rivers and Critical Source Areas

- 15 The relief sought by Council seeks deletion of the blanket exclusion of 'ephemeral rivers' from many rules. It is also clear that the use of the term 'ephemeral river' does not align with plan users' views of what a 'river' is. Therefore, a change in terminology, in line with the Dairy Interests' suggestions, and management as critical source areas, as sought by a number of parties, is Council's preference. This has led to changes and consequential changes in a number of provisions and definitions.

Intensive Winter Grazing

- 16 The relief sought by Council is based on the separation of the intensive winter grazing rule from Rule 20, as proposed by the Dairy Interests. However, much of the content is based on the National Environmental Standard for Freshwater and the Southland Intensive Winter Grazing Advisory Group outcomes. The Council's preferred relief requires a Farm Environmental Management Plan, the exclusion of critical source areas (which include ephemeral flow paths) from intensive winter

grazing paddocks, and discourages, through both policy and activity status, further expansion of intensive winter grazing in Southland.

Cultivation

- 17 Council's preferred relief adds a number of additional requirements, including slope-based setbacks and better management of critical source areas.
- 18 The definition of cultivation is recommended to be amended, so that it excludes herbicide spraying for forestry activities and also enables 'stick raking' following forest harvest but requires the stick raking to follow the contour of the land if the slope is over 10 degrees.

Stock exclusion

- 19 Council's preferred relief with respect to stock exclusion largely maintains the existing provisions, with the addition of open drains and natural wetlands to the areas where stock is to be excluded from. There is also a change to the chapeau of the policy to align with similar policies in the plan, and better linkages to Farm Environment Plans/Appendix N as a means to show implementation of the provisions.
- 20 A specific rule permitting sheep is recommended to be included, as requested by Beef and Lamb. This rule does not enable access by sheep to natural wetlands. A definition of stock unit is also included to improve the functioning of the rule. These changes are considered to clarify the existing provisions, rather than introduce substantial change.
- 21 Council is also of the view that it is not possible to fully align these provisions with the Stock Exclusion Regulations, and advice and assistance will be required from Council to help the public understand the obligations under both documents.

Farm Environment Plans/Appendix N

- 22 As was acknowledged during the Environment Court Topic A hearing, the obligations under the decisions version of Appendix N for the majority of farming activities are modest. Since the drafting of Appendix N, and the Council decisions on it, there have been substantial advances with respect to farm environment plans, including the Freshwater Farm Plan framework, greater knowledge of what can be achieved, and experience with implementation and auditing. On this

basis, Council's preferred relief introduces substantial changes to Appendix N, to require a more thorough and principled assessment of the farming activity, how the farming activity should respond to the catchment context, and certification and auditing to ensure improvements are actually occurring.

How the Objectives and Policies are implemented

- 23 The Council's preferred relief is a step toward implementing the NPSFM and the Objectives of the plan, particularly Objectives 1, 2, 3, 6, 8, 13, 14, 15, 17 and 18.
- 24 The changes proposed give effect to the NPSFM insofar as there is scope within the appeals, noting that the obligation to give full give effect to the NPSFM is "as soon as reasonably practicable". I do not consider it is reasonably practicable to give full effect to the NPSFM through this appeals process. That step has always been intended to occur through the FMU plan change, now known as Plan Change Tuatahi.
- 25 The Council's preferred relief will result in a reduction in contaminant losses, particularly in sediment and *E. Coli*. *E. Coli* in particular is one of the more significant and widespread measures by which Southland waterbodies fail to meet national standards, and requires substantial reductions. The additional protection of natural wetlands is also a key part of how the NPSFM, National Environmental Standards for Freshwater, and Objectives 2, 13, 14, 15 and 17 will be achieved.

Topic B6 – Infrastructure

- 26 The Council's relief sought for Policy 26 is largely aligned with changes sought by Meridian Energy and Ngā Rūnanga. I consider the amendment to the chapeau of Policy 26 improves the relationship between Objective 9B and Policy 26. The amendment to clause (b) of Policy 26 will result in a wider range of activities and effects being considered, which could include reverse sensitivity.
- 27 The Council's preferred relief for Policy 26A and Rule 52 are as per agreed changes in the Mediation Agreement for this topic.

28 No preferred relief is provided for Rule 52A as Council has previously advised it will abide the Court's decision on this issue.

A handwritten signature in green ink, appearing to read 'mccallum', is positioned above a horizontal dotted line.

Matthew McCallum-Clark

11 November 2021

