

**BEFORE THE ENVIRONMENT COURT  
AT CHRISTCHURCH**

**ENV - 2018 - CHC**

**UNDER** the Resource Management Act 1991

**A N D**

**IN THE MATTER** of an appeal under cl 14 of the First Schedule to the  
Resource Management Act 1991

**BETWEEN** **DAIRYNZ LTD**

**Appellant**

**A N D** **SOUTHLAND REGIONAL COUNCIL**

**Respondent**

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**NOTICE OF APPEAL AGAINST DECISIONS ON THE  
PROPOSED SOUTHLAND WATER AND LAND PLAN BY DAIRYNZ LTD**

**16 MAY 2018**

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**Solicitor acting:**

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**TO: THE REGISTRAR  
ENVIRONMENT COURT  
CHRISTCHURCH**

**DAIRYNZ LTD (Appellant)** appeals against parts of the decision (**Decision**) of the Southland Regional Council (**Council**) on the Proposed Southland Water and Land Plan (**Proposed Plan**).

1. The Appellant made a submission and further submissions on the Proposed Plan Change.
2. The Appellant is not a trade competitor for the purposes of s 308D of the Resource Management Act 1991.
3. The Decision was received on or about 4 April 2018. The appeal period closes on 17 May 2018.
4. The Decision was made by the Council.

#### **Scope of Appeal**

5. The parts of the Decision being appealed include those identified below, together with all necessary further consequential amendments including amendments to other parts of the Proposed Plan (including to Rule 35 - Discharge of Agricultural Effluent to Land):
  - (a) Rule 20(a)(iii)(E) - Intensive winter grazing
  - (b) Rule 35A - Feed pad/lots

#### **Grounds for appeal**

6. The Appellant's grounds for appeal are that those parts of the Decision being appealed:
  - (a) will not promote the sustainable management of resources, will not achieve the purpose of the RMA, and are contrary to Part 2 and other provisions of the Resource Management Act 1991;
  - (b) do not manage the use of resources in a way that enables the community to provide for social and economic well-being;
  - (c) are not an efficient use and development of natural and physical resources;
  - (d) do not avoid, remedy or mitigate the adverse effects on the environment; and
  - (e) do not represent the most appropriate way to achieve the objectives of the Proposed Plan Changes in terms of section 32 of the Resource Management Act 1991.

7. Without limiting the generality of the above, further specific grounds of appeal are set out in **Appendix 1**.


**Relief sought**

8. The Appellant requests:
- (a) that the Proposed Plan be amended in the manner described in **Appendix 1**, or words to like effect; and
  - (b) such consequential or related relief as may be necessary to give effect to its concerns described in this notice of appeal, including any amendments to any policies associated with the rules under appeal.

**Attachments**

9. Copies of the following documents are attached to this notice:
- (a) A copy of the Appellant's submission and further submissions - **Appendix 2**
  - (b) The relevant parts of the Decision being appealed - **Appendix 3**
  - (c) A list of the names and addresses of persons to be served with a copy of this notice of appeal - **Appendix 4**

DAIRYNZ LTD by its counsel:



Signature: BJ Matheson / S Watson  
Date: 16 May 2018

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**TO:** Registrar, Environment Court, Christchurch

**AND TO:** Southland Regional Council

**AND TO:** Submitters listed in Appendix 4

## Advice to recipients of copy of notice of appeal

### *How to become party to proceedings*

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must, –

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in [form 33](#)) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in [section 274\(1\)](#) and [Part 11A](#) of the Resource Management Act 1991.

You may apply to the Environment Court under [section 281](#) of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see [form 38](#)).

### *How to obtain copies of documents relating to appeal*

The copy of this notice served on you does not attach a copy of the appellant's submission and (or or) the decision (or part of the decision) appealed. These documents may be obtained, on request, from the appellant.

### *Advice*

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington or Christchurch.

## APPENDIX 1 - SPECIFIC GROUNDS OF APPEAL/REASONS

Provision appealed	Specific grounds of appeal/reasons	Relief sought (in mark-up)
Rule 20(a)(iii)(3)(E)	<p style="text-align: center;"><b>Rule</b></p> <p>This rule relates to the land use rules for farming, and in particular to the winter grazing requirements. This provision is a permitted activity standard that imposes a maximum limit of 120 cattle.</p> <p>The limit of 120 is arbitrary and is not justified by any environmental assessment or research. The rule risks farmers spending considerable time managing the precise number of cows in any herd, rather than focussing on obligations that result in positive environmental outcomes (ie Farm Environment Plan commitments).</p> <p>Other than the arbitrary herd limit in sub-paragraph (E), the rule imposes a rigorous regime on farmers if they want to rely on this permitted activity rule for winter grazing. This includes a limit of no more than 15% of the land holding or 100 ha (whichever is the lesser), the requirement for a FEP (including wintering-specific Good Management Practices), stock exclusion obligations, a prohibition on winter grazing above 800m msl, and 5 other wintering-specific Good Management Practices.</p> <p>The combination of all these other measures will address potential environmental effects effectively and efficiently, and there is no reason for there to be an arbitrary limit on the number of cattle.</p>	<p>Amend Rule 20(a)(iii)(3)(E) as follows:</p> <p><b>Rule 20 - Farming</b></p> <p>(a) The use of land for a farming activity is a permitted activity provided the following conditions are met: ...</p> <p>(iii) where the farming activity includes intensive winter grazing on the landholding, the following conditions are met:</p> <p>(3) from 1 May 2019, all of the following practises are implemented:</p> <p>(E) if <del>cattle</del> deer are being grazed the mob size being grazed is no more than 120 <del>cattle</del> or 250 deer; and</p> <p>If the above relief is not granted and the reference to cattle is retained, the following phrase from Rule 35A should be added to (E): <u>“or equivalent number of young stock at any one time”</u>.</p>
Rule 35A	<p>This rule caps the maximum permissible number of cows on a feed pad/lot at 120 adult cattle.</p> <p>Rule 35A was not included within the Proposed Plan (as notified) and it appears that it originated from a recommendation in the s 42A Report. There was therefore no</p>	<p>Amend Rule 35A as follows:</p> <p><b>Rule 35A - Feed pads/lots</b></p> <p>(a) The use of land for a feed pad/lot is a permitted activity provided</p>

Provision appealed	Specific grounds of appeal/reasons	Relief sought (in mark-up)
	<p>direct opportunity to lodge a submission or further submission on Rule 35. The effect of the rule is separate out the discharge consent (Rule 35) from the land use consent (Rule 35A).</p> <p>This provision is appealed for similar reasons as apply to Rule 20(a)(iii)(3)(E) (above). Namely that there is no environmental justification for this arbitrary limit of 120, and a breach of this limit will require a restricted discretionary activity resource consent.</p> <p>The environmental effects arising from the operation of a feed pad/lot can and is appropriately managed through a range of environmental requirements for the feed pad/lot. This includes a requirement for the base to be sealed or be impermeable, a minimum extent and depth of floor covering, controls on the disposal of collected effluent, minimum separation distances between the feed pad/lot and the nearest sub-surface drain, watercourse, wetland or another feed pad/lot on the same landholding, and a requirement that the feed pad/lot not be located within a critical source area.</p> <p>That range of controls will address any potential environmental effects from the feed pad/lots effectively and efficiently, and there is no reason to impose a limit on the number of adult cattle, or equivalent young stock, who could use each feed pad/lot.</p> <p>DairyNZ recognises that Rule 35A is linked to Rule 35 (the discharge rule). DairyNZ did not oppose the limit on cattle in Rule 35 as notified in the Proposed Plan. Accordingly, if the requested change is made to Rule 35A and the limit on the number of cattle is deleted, then Rule 35 may need to be amended to reinsert that limit (if such a limit is considered appropriate) back into Rule 35.</p>	<p>the following conditions are met:</p> <p>(i) If accommodating <del>cattle of deer</del> each feed pad/lot services no more than <del>420 adult cattle</del>, of 250 adult deer, or equivalent number of young stock at any one time;</p> <p>As consequential relief, if the above relief is granted, amend Rule 35 - Discharge of Agricultural Effluent to Land to reinsert the limit on cattle numbers (with such limit solely applying to Rule 35).</p>