

**IN THE ENVIRONMENT COURT  
CHRISTCHURCH REGISTRY**

**ENV-2018-CHC-000037**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of appeals under Clause 14(1) of the First  
Schedule of the Act in relation to the  
proposed Southland Water and Land Plan

**BETWEEN** **Southland Fish and Game Council**

Appellant

**AND** **Southland Regional Council**

Respondent

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**NOTICE OF WISH TO BE  
PARTY TO PROCEEDINGS PURSUANT TO  
SECTION 274 RESOURCE MANAGEMENT ACT 1991**

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**To:** The Registrar

Environment Court

Christchurch

1. Horticulture New Zealand (“**HortNZ**”) wishes to be a party pursuant to section 274 of the Resource Management Act 1991 (“**RMA**”) to the following proceedings:
  - (a) *Southland Fish and Game Council v Southland Regional Council (ENV-2018-CHC-000037)* being an appeal against decisions of the Southland Council on the proposed Southland Water and Land Plan.
2. HortNZ made submissions and further submissions on the proposed Southland Water and Land Plan (submission number 390 and further submission number 390).
3. HortNZ also has an interest in these proceedings that is greater than the general public as it represents interest groups in the community that are likely to be affected by the proposed relief sought by the Respondent
4. HortNZ is not a trade competitor for the purposes of section 308C or 308CA of the RMA.
5. The parts of the proceedings HortNZ is interested in are:
6. Region-wide Objective:
  - (a) Objective 2
  - (b) Objective 6
  - (c) Objective 7
  - (d) Objective 9
  - (e) Objective 13
  - (f) Objective 13A
  - (g) Objective 13B
  - (h) Objective 18

7. Region Wide Policies:

- (a) Policy 6 – Gleyed, Bedrock / Hill Country and Lignite-Marine Terraces
- (b) Policy 10 – Oxidising
- (c) Policy 13 – Management of land use activities and discharges
- (d) Policy 15A – Maintain water quality where standards are met
- (e) Policy 15B – Improving water quality where standards are not met
- (f) Policy 15C – Maintaining and improving water quality after FMU processes
- (g) Policy 16 – Farming activities that affect water quality
- (h) Policy 20 – Management of water resources
- (i) Policy 39 – Application of permitted baseline
- (j) Policy 42 – Consideration of water permit applications
- (k) Policy 45 – Priority of FMU values, objectives, policies and rules
- (l) Policy 47 – FMU processes

8. Discharge Rules:

- (a) Rule 5 – Discharges from surface water bodies
- (b) Rule 13 – Discharges from subsurface drainage systems
- (c) Rule 14 – Discharge of fertiliser
- (d) Rule 20 – Farming
- (e) Rule 24 – Incidental Discharges from farming
- (f) Rule 25 – Cultivation

9. Glossary – Definitions

- (a) Sediment
- (b) Significant de-vegetation
- (c) Sloping Ground

10. Appendices

- (a) Appendix E – Receiving Water Quality Standards
- (b) Appendix K – Surface Water Appendix
- (c) Appendix N – Farm Environment Plan

11. The particular issues and whether HortNZ supports, opposes or conditionally opposes the relief sought are set out in the attached table.

12. HortNZ agrees to participate in mediation or other alternative dispute resolution of the proceedings.

A handwritten signature in blue ink, appearing to read 'R McClung', is positioned above the typed name.

**Rachel McClung**

Environmental Policy Advisor – South Island  
Horticulture New Zealand

14 / 06 / 2018

**Address for service:**

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Phone: 04 470 5664  
Email: [rachel.mcclung@hortnz.co.nz](mailto:rachel.mcclung@hortnz.co.nz)  
Contact person: Rachel McClung

**Advice**

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

## ATTACHMENT 1

Provision Appealed by Southland Fish and Game Council	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
Objective 2	390.FS 48.4, 279.5 752.18 and 803.7	Oppose	HortNZ supports the inclusion of enabling the social, economic and cultural wellbeing, including primary production. The appellant seeks to delete reference to primary production. However it is only an 'inclusion' not an exclusive activity. Given the importance of primary production to Southland it is appropriate that it is identified as a means to provide for the social, economic and cultural wellbeing. Deletion of primary production is opposed.
Objective 6	390.FS on 279.6, 752.22, 750.2, 210.27, 277.10 and 17.3	Oppose	Objective A2 of the NPSFM seeks that the overall quality of fresh water is maintained or improved. Objective 6 is consistent with the NPSFM.
Objective 7	390.FS on 752.23, 622.7 and 210.28	Oppose	The assessment of overallocation will be determined through the FMU process so it is inappropriate to amend Objective 7 as sought by the appellant.
Objective 9	390.3 and FS on 279.9 and 752.25	Oppose	Objective 9 is focused on s6 matters. Recreational values are not a s6 matter so it is inappropriate that they are included in Objective 9.
Objective 13	390.5 and FS on 279.12, 277.14 and 752.29	Oppose	HortNZ supports the enabling objective to use and development of land and soils to support the economic, social and cultural wellbeing of the region. The use of such resources is balanced through other objectives and policies so it is not necessary to amend the policy framework as sought by the appellant.

<b>Provision Appealed by Southland Fish and Game Council</b>	<b>Scope for s274 (HortNZ submission point reference)</b>	<b>Support / Oppose</b>	<b>Reasons</b>
Objective 13A	390.5 and FS on 279.12, 277.14 and 752.29	Oppose	The appellant seeks the deletion of Objective 13A. The objective seeks to ensure that the soil resource is not degraded and HortNZ supports that objective.
Objective 13B	390.5 and FS on 279.12, 277.14 and 752.29	Oppose	The appellant seeks the deletion of Objective 13B. The objective seeks to ensure that the adverse effects on significant or cumulative human health are avoided and HortNZ supports that objective
Objective 18	390.6 and FS 277.16 and 661.10	Oppose	HortNZ supports the use of good management practices in the Plan and considers that Objective 18 provides an appropriate policy framework for the use of GMP's in the implementation of the Plan. Best practicable option is a different mechanism which is not the most appropriate mechanism for use in Farm Environmental Management Plans. Objective 18 seeks to maintain or improve quality and quantity of the regions water resources which is an appropriate policy approach.
Policy 6 – Gleyed, Bedrock / Hill Country and Lignite-Marine Terraces	390.9 and FS on 210.45	Oppose	HortNZ supports the approach in Policy 6 requiring implementation of good management practices to manage adverse effects on water quality. The use of best practicable option is inappropriate for farming activities.
Policy 10 – Oxidising	390.10 and FS on 752.44	Oppose	HortNZ supports the approach in Policy 10 requiring implementation of good management practices to manage adverse effects on water quality. The use of best practicable option is inappropriate for farming activities.

<b>Provision Appealed by Southland Fish and Game Council</b>	<b>Scope for s274 (HortNZ submission point reference)</b>	<b>Support / Oppose</b>	<b>Reasons</b>
Policy 13 – Management of land use activities and discharges	390.FS on 277.21 and 895.25	Oppose in part Support in part	HortNZ supports the inclusion of use and development of Southland’s land and water resources, including for primary production. The appellant seeks to delete reference to primary production. However it is only an ‘inclusion’ not an exclusive activity. Given the importance of primary production to Southland it is appropriate that it is identified as a means to provide for social, economic and cultural wellbeing. Deletion of primary production is opposed.
Policy 15A – Maintain water quality where standards are met	390.11 and FS on 17.19 and 265.46	Oppose	The decisions delete Policy 15 and replace it with three new policies. The restructured policies provide for a clearer process and framework and are consistent with the NPSFM.
Policy 15B – Improving water quality where standards are not met	390.11 and FS on 17.19 and 265.46	Oppose	The decisions delete Policy 15 and replace it with three new policies. The restructured policies provide for a clearer process and framework and are consistent with the NPSFM.
Policy 15C – Maintaining and improving water quality after FMU processes	390.11 and FS on 17.19 and 265.46	Oppose	The decisions delete Policy 15 and replace it with three new policies. The restructured policies provide for a clearer process and framework and are consistent with the NPSFM.
Policy 16 – Farming activities that affect water quality	390.13 and FS on 210.55, 572.1, 661.24 and 803.25	Oppose	HNZ supports the decision version of Policy 16 as it is an effects based approach, rather than the more restrictive regime sought by the appellant.

Provision Appealed by Southland Fish and Game Council	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
Policy 20 – Management of water resources	390.14 and FS on 277.27, 265.50, 279.27 and 752.63	Oppose	The appellant seeks to delete reference to primary production. However it is only an ‘inclusion’ not an exclusive activity. Given the importance of primary production to Southland it is appropriate that it is identified as a means to provide for social, economic and cultural wellbeing. Deletion of primary production is opposed. HortNZ supports the inclusion of avoid, remedy or mitigate as it is consistent with the RMA.
Policy 39 – Application of permitted baseline	390.FS on 277.27	Oppose	HortNZ supports the appeal by Federated Farmers to delete Policy 39, rather than amend as sought by the appellant. A plan policy should not override a statutory discretion.
Policy 42 – Consideration of water permit applications	390.FS on 330.9 and 797.28	Oppose	Policy 42 states the matters to be considered for resource consents for water permits, including the issue of over-allocation. HortNZ supports the policy approach as it provides consideration of the specific situation.
Policy 45 – Priority of FMU values, objectives, policies and rules	390.19 and FS 277.38	Oppose	There needs to be clarity about the relationship between the FMU sections and region wide sections of the Plan. HortNZ supports the approach in the decisions as it clearly sets out the relationship and that the FMU cannot override the region wide provisions.
Policy 47 – FMU processes	390.20 and FS on 265.50 and 562.10	Oppose	There needs to be clarity about the relationship between the FMU sections and region wide sections of the Plan. HortNZ supports the approach in the decisions as it clearly sets out the relationship and that the FMU cannot override the region wide provisions. Policy 47 sets out



Provision Appealed by Southland Fish and Game Council	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
			how the FMU process will implement the NPSFM and this approach is supported.
Rule 5 – Discharges from surface water bodies	390.21 and FS on 17.25, 48.30 and 265.74	Support in part	Deletion of clause 3 providing an exemption for territorial authorities is supported.
Rule 13 – Discharges from subsurface drainage systems	390.27 and FS 249.20, 247.8, 279.63, 622.18 and 752.105	Oppose	Rule 13 includes a range of standards that need to be met for an activity to be permitted. The additional condition sought by the appellant is uncertain as a condition in a permitted activity rule. The conditions in the decisions version address the concern of the appellant. A non-complying activity status where Rule 13 conditions cannot be met is unnecessary to assess the effects of the activity.
Rule 14 – Discharge of fertiliser	390.28 and FS 249.21, 265.80, 661.35 and 698.4	Oppose	The appellant seeks inclusion of ephemeral or intermittent rivers in Rule 14 for all fertiliser applications. HortNZ has appealed Rule 14 to ensure that good management practices are used for discharge of fertilisers but does not consider that ephemeral or intermittent rivers should be included in Rule 14.
Rule 20 – Farming	390.29 and FS 62.8, 100.2, 210.82, 247.9, 361.8, 572.2, 661.37, 752.112, 803.38, and 832.21	Oppose	The plan focuses on the key issues for water quality in Southland and Rule 20 provides a framework for addressing the identified issues for farming activities, through the use of good management practices. This approach is supported and the changes sought by the appellant would be more restrictive and unworkable, including the use of best practicable option.

Provision Appealed by Southland Fish and Game Council	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
			A non-complying activity is unnecessary to assess the effects of the activity where the standards in the Rule are not met
Rule 24 – Incidental Discharges from farming	390.FS on 279.70 and 752.117	Oppose	Rule 24 includes a range of standards that need to be met for an activity to be permitted. The additional conditions sought by the appellant are uncertain as a condition in a permitted activity rule. The conditions in the decisions version address the concern of the appellant.
Rule 25 – Cultivation	390.30 and FS 279.71, 190.14, 265.88, and 752.118	Oppose in part	The appellant seeks to increase setbacks based on slope for all cultivation. HortNZ has appealed Rule 25 to ensure that good management practices are used for cultivation which is more effects based than requiring mandatory setbacks. HortNZ supports in part the deletion of b) if it is replaced with good management practices.
Sediment	390.	Oppose in part	The term sediment is used throughout the plan but there is no definition and there does not appear to be any submission that sought a definition. The appellant identifies in 6 uu) of the appeal that there is no definition but one is requested to be inserted. Given that the whole plan process has been undertaken on the basis of a common understanding it is unclear what value there is for a definition to be included at this stage.
Significant de-vegetation	390.45	Oppose in part	The notified version of the Plan had a definition for significant de-vegetation that HortNZ sought be deleted. The definition is not shown as a strikethrough in the Decisions version of the Plan. The appellant

Provision Appealed by Southland Fish and Game Council	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
			seeks that a definition be included that is linked to de-vegetation caused by stock access or grazing, rather than all farming activities. If a definition is to be introduced HortNZ supports the more targeted approach.
Sloping Ground	390.30	Oppose	The appellant identifies in 6 ww) of the appeal that there is no definition but one is requested to be inserted. Given that the whole plan process has been undertaken on the basis of a common understanding it is unclear what value there is for a definition to be included at this stage. Where sloping ground may be referred to in rules is a more appropriate place to include specific slopes that are relevant to the specific situation.
Appendix E – Receiving Water Quality Standards	390.FS on 17.45, 190.21, 265.107, 279.116 and 752.180	Oppose	The appellant seeks to improve the water clarity and MCI standard. The current plan requires that where these standards are met, water quality is maintained and where they are not met, water quality is improved. HortNZ considers any further amendments to the content of Appendix E should await the freshwater objectives and water quality limit setting process that Council will undertake as part of its FMU process.
Appendix K – Surface Water Appendix	390.FS on 210.98 and 414.12	Oppose	HortNZ has an interest in Appendix K. The matters of appeal are unclear and we are uncertain of the relief is being sought.
Appendix N – Farm Environment Plan	390.38 and FS on 62.15, 190.22,	Oppose	The changes sought by the appellant would increase the complexity, workability and practicality of the Farm Environmental Management

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	241.6, 247.32, 414.13, 661.43, 725.190 and 803.43		Plans. These plans need to be clear and targeted at the effects to be managed. HortNZ supports consistency of FEMP across the country to assist industry organisations assisting farmers and growers to develop and implement such plans.

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2. HortNZ made submissions and further submissions on the proposed Southland Water and Land Plan (submission number 390 and further submission number 390).
3. HortNZ also has an interest in these proceedings that is greater than the general public as it represents interest groups in the community that are likely to be affected by the proposed relief sought by the Respondent
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6. Region-wide Objective:
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  - (f) Objective 13A
  - (g) Objective 13B
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7. Region Wide Policies:

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- (h) Policy 20 – Management of water resources
- (i) Policy 39 – Application of permitted baseline
- (j) Policy 42 – Consideration of water permit applications
- (k) Policy 45 – Priority of FMU values, objectives, policies and rules
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8. Discharge Rules:

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- (f) Rule 25 – Cultivation

9. Glossary – Definitions

- (a) Sediment
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11. The particular issues and whether HortNZ supports, opposes or conditionally opposes the relief sought are set out in the attached table.

12. HortNZ agrees to participate in mediation or other alternative dispute resolution of the proceedings.

A handwritten signature in blue ink, appearing to read 'R McClung', is positioned above the printed name.

**Rachel McClung**

Environmental Policy Advisor – South Island  
Horticulture New Zealand

14 / 06 / 2018

**Address for service:**

Horticulture New Zealand  
PO Box 10232, Wellington 6143  
Phone: 04 470 5664  
Email: [rachel.mcclung@hortnz.co.nz](mailto:rachel.mcclung@hortnz.co.nz)  
Contact person: Rachel McClung

**Advice**

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



## ATTACHMENT 1

Provision Appealed by Southland Fish and Game Council	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
Objective 2	390.FS 48.4, 279.5 752.18 and 803.7	Oppose	HortNZ supports the inclusion of enabling the social, economic and cultural wellbeing, including primary production. The appellant seeks to delete reference to primary production. However it is only an 'inclusion' not an exclusive activity. Given the importance of primary production to Southland it is appropriate that it is identified as a means to provide for the social, economic and cultural wellbeing. Deletion of primary production is opposed.
Objective 6	390.FS on 279.6, 752.22, 750.2, 210.27, 277.10 and 17.3	Oppose	Objective A2 of the NPSFM seeks that the overall quality of fresh water is maintained or improved. Objective 6 is consistent with the NPSFM.
Objective 7	390.FS on 752.23, 622.7 and 210.28	Oppose	The assessment of overallocation will be determined through the FMU process so it is inappropriate to amend Objective 7 as sought by the appellant.
Objective 9	390.3 and FS on 279.9 and 752.25	Oppose	Objective 9 is focused on s6 matters. Recreational values are not a s6 matter so it is inappropriate that they are included in Objective 9.
Objective 13	390.5 and FS on 279.12, 277.14 and 752.29	Oppose	HortNZ supports the enabling objective to use and development of land and soils to support the economic, social and cultural wellbeing of the region. The use of such resources is balanced through other objectives and policies so it is not necessary to amend the policy framework as sought by the appellant.

Provision Appealed by Southland Fish and Game Council	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
Objective 13A	390.5 and FS on 279.12, 277.14 and 752.29	Oppose	The appellant seeks the deletion of Objective 13A. The objective seeks to ensure that the soil resource is not degraded and HortNZ supports that objective.
Objective 13B	390.5 and FS on 279.12, 277.14 and 752.29	Oppose	The appellant seeks the deletion of Objective 13B. The objective seeks to ensure that the adverse effects on significant or cumulative human health are avoided and HortNZ supports that objective
Objective 18	390.6 and FS 277.16 and 661.10	Oppose	HortNZ supports the use of good management practices in the Plan and considers that Objective 18 provides an appropriate policy framework for the use of GMP's in the implementation of the Plan. Best practicable option is a different mechanism which is not the most appropriate mechanism for use in Farm Environmental Management Plans. Objective 18 seeks to maintain or improve quality and quantity of the regions water resources which is an appropriate policy approach.
Policy 6 – Gleyed, Bedrock / Hill Country and Lignite-Marine Terraces	390.9 and FS on 210.45	Oppose	HortNZ supports the approach in Policy 6 requiring implementation of good management practices to manage adverse effects on water quality. The use of best practicable option is inappropriate for farming activities.
Policy 10 – Oxidising	390.10 and FS on 752.44	Oppose	HortNZ supports the approach in Policy 10 requiring implementation of good management practices to manage adverse effects on water quality. The use of best practicable option is inappropriate for farming activities.

<b>Provision Appealed by Southland Fish and Game Council</b>	<b>Scope for s274 (HortNZ submission point reference)</b>	<b>Support / Oppose</b>	<b>Reasons</b>
Policy 13 – Management of land use activities and discharges	390.FS on 277.21 and 895.25	Oppose in part Support in part	HortNZ supports the inclusion of use and development of Southland’s land and water resources, including for primary production. The appellant seeks to delete reference to primary production. However it is only an ‘inclusion’ not an exclusive activity. Given the importance of primary production to Southland it is appropriate that it is identified as a means to provide for social, economic and cultural wellbeing. Deletion of primary production is opposed.
Policy 15A – Maintain water quality where standards are met	390.11 and FS on 17.19 and 265.46	Oppose	The decisions delete Policy 15 and replace it with three new policies. The restructured policies provide for a clearer process and framework and are consistent with the NPSFM.
Policy 15B – Improving water quality where standards are not met	390.11 and FS on 17.19 and 265.46	Oppose	The decisions delete Policy 15 and replace it with three new policies. The restructured policies provide for a clearer process and framework and are consistent with the NPSFM.
Policy 15C – Maintaining and improving water quality after FMU processes	390.11 and FS on 17.19 and 265.46	Oppose	The decisions delete Policy 15 and replace it with three new policies. The restructured policies provide for a clearer process and framework and are consistent with the NPSFM.
Policy 16 – Farming activities that affect water quality	390.13 and FS on 210.55, 572.1, 661.24 and 803.25	Oppose	HNZ supports the decision version of Policy 16 as it is an effects based approach, rather than the more restrictive regime sought by the appellant.

<b>Provision Appealed by Southland Fish and Game Council</b>	<b>Scope for s274 (HortNZ submission point reference)</b>	<b>Support / Oppose</b>	<b>Reasons</b>
Policy 20 – Management of water resources	390.14 and FS on 277.27, 265.50, 279.27 and 752.63	Oppose	The appellant seeks to delete reference to primary production. However it is only an ‘inclusion’ not an exclusive activity. Given the importance of primary production to Southland it is appropriate that it is identified as a means to provide for social, economic and cultural wellbeing. Deletion of primary production is opposed. HortNZ supports the inclusion of avoid, remedy or mitigate as it is consistent with the RMA.
Policy 39 – Application of permitted baseline	390.FS on 277.27	Oppose	HortNZ supports the appeal by Federated Farmers to delete Policy 39, rather than amend as sought by the appellant. A plan policy should not override a statutory discretion.
Policy 42 – Consideration of water permit applications	390.FS on 330.9 and 797.28	Oppose	Policy 42 states the matters to be considered for resource consents for water permits, including the issue of over-allocation. HortNZ supports the policy approach as it provides consideration of the specific situation.
Policy 45 – Priority of FMU values, objectives, policies and rules	390.19 and FS 277.38	Oppose	There needs to be clarity about the relationship between the FMU sections and region wide sections of the Plan. HortNZ supports the approach in the decisions as it clearly sets out the relationship and that the FMU cannot override the region wide provisions.
Policy 47 – FMU processes	390.20 and FS on 265.50 and 562.10	Oppose	There needs to be clarity about the relationship between the FMU sections and region wide sections of the Plan. HortNZ supports the approach in the decisions as it clearly sets out the relationship and that the FMU cannot override the region wide provisions. Policy 47 sets out

Provision Appealed by Southland Fish and Game Council	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
			how the FMU process will implement the NPSFM and this approach is supported.
Rule 5 – Discharges from surface water bodies	390.21 and FS on 17.25, 48.30 and 265.74	Support in part	Deletion of clause 3 providing an exemption for territorial authorities is supported.
Rule 13 – Discharges from subsurface drainage systems	390.27 and FS 249.20, 247.8, 279.63, 622.18 and 752.105	Oppose	Rule 13 includes a range of standards that need to be met for an activity to be permitted. The additional condition sought by the appellant is uncertain as a condition in a permitted activity rule. The conditions in the decisions version address the concern of the appellant. A non-complying activity status where Rule 13 conditions cannot be met is unnecessary to assess the effects of the activity.
Rule 14 – Discharge of fertiliser	390.28 and FS 249.21, 265.80, 661.35 and 698.4	Oppose	The appellant seeks inclusion of ephemeral or intermittent rivers in Rule 14 for all fertiliser applications. HortNZ has appealed Rule 14 to ensure that good management practices are used for discharge of fertilisers but does not consider that ephemeral or intermittent rivers should be included in Rule 14.
Rule 20 – Farming	390.29 and FS 62.8, 100.2, 210.82, 247.9, 361.8, 572.2, 661.37, 752.112, 803.38, and 832.21	Oppose	The plan focuses on the key issues for water quality in Southland and Rule 20 provides a framework for addressing the identified issues for farming activities, through the use of good management practices. This approach is supported and the changes sought by the appellant would be more restrictive and unworkable, including the use of best practicable option.

<b>Provision Appealed by Southland Fish and Game Council</b>	<b>Scope for s274 (HortNZ submission point reference)</b>	<b>Support / Oppose</b>	<b>Reasons</b>
			A non-complying activity is unnecessary to assess the effects of the activity where the standards in the Rule are not met
Rule 24 – Incidental Discharges from farming	390.FS on 279.70 and 752.117	Oppose	Rule 24 includes a range of standards that need to be met for an activity to be permitted. The additional conditions sought by the appellant are uncertain as a condition in a permitted activity rule. The conditions in the decisions version address the concern of the appellant.
Rule 25 – Cultivation	390.30 and FS 279.71, 190.14, 265.88, and 752.118	Oppose in part	The appellant seeks to increase setbacks based on slope for all cultivation. HortNZ has appealed Rule 25 to ensure that good management practices are used for cultivation which is more effects based than requiring mandatory setbacks. HortNZ supports in part the deletion of b) if it is replaced with good management practices.
Sediment	390.	Oppose in part	The term sediment is used throughout the plan but there is no definition and there does not appear to be any submission that sought a definition. The appellant identifies in 6 uu) of the appeal that there is no definition but one is requested to be inserted. Given that the whole plan process has been undertaken on the basis of a common understanding it is unclear what value there is for a definition to be included at this stage.
Significant de-vegetation	390.45	Oppose in part	The notified version of the Plan had a definition for significant de-vegetation that HortNZ sought be deleted. The definition is not shown as a strikethrough in the Decisions version of the Plan. The appellant

Provision Appealed by Southland Fish and Game Council	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
			seeks that a definition be included that is linked to de-vegetation caused by stock access or grazing, rather than all farming activities. If a definition is to be introduced HortNZ supports the more targeted approach.
Sloping Ground	390.30	Oppose	The appellant identifies in 6 ww) of the appeal that there is no definition but one is requested to be inserted. Given that the whole plan process has been undertaken on the basis of a common understanding it is unclear what value there is for a definition to be included at this stage. Where sloping ground may be referred to in rules is a more appropriate place to include specific slopes that are relevant to the specific situation.
Appendix E – Receiving Water Quality Standards	390.FS on 17.45, 190.21, 265.107, 279.116 and 752.180	Oppose	The appellant seeks to improve the water clarity and MCI standard. The current plan requires that where these standards are met, water quality is maintained and where they are not met, water quality is improved. HortNZ considers any further amendments to the content of Appendix E should await the freshwater objectives and water quality limit setting process that Council will undertake as part of its FMU process.
Appendix K – Surface Water Appendix	390.FS on 210.98 and 414.12	Oppose	HortNZ has an interest in Appendix K. The matters of appeal are unclear and we are uncertain of the relief is being sought.
Appendix N – Farm Environment Plan	390.38 and FS on 62.15, 190.22,	Oppose	The changes sought by the appellant would increase the complexity, workability and practicality of the Farm Environmental Management

Provision Appealed by Southland Fish and Game Council	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
	241.6, 247.32, 414.13, 661.43, 725.190 and 803.43		Plans. These plans need to be clear and targeted at the effects to be managed. HortNZ supports consistency of FEMP across the country to assist industry organisations assisting farmers and growers to develop and implement such plans.



**IN THE ENVIRONMENT COURT  
CHRISTCHURCH REGISTRY**

**ENV-2018-CHC-000037**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of appeals under Clause 14(1) of the First  
Schedule of the Act in relation to the  
proposed Southland Water and Land Plan

**BETWEEN** **Southland Fish and Game Council**

Appellant

**AND** **Southland Regional Council**

Respondent

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**NOTICE OF WISH TO BE  
PARTY TO PROCEEDINGS PURSUANT TO  
SECTION 274 RESOURCE MANAGEMENT ACT 1991**

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**To:** The Registrar

Environment Court

Christchurch

1. Horticulture New Zealand (“**HortNZ**”) wishes to be a party pursuant to section 274 of the Resource Management Act 1991 (“**RMA**”) to the following proceedings:
  - (a) *Southland Fish and Game Council v Southland Regional Council (ENV-2018-CHC-000037)* being an appeal against decisions of the Southland Council on the proposed Southland Water and Land Plan.
2. HortNZ made submissions and further submissions on the proposed Southland Water and Land Plan (submission number 390 and further submission number 390).
3. HortNZ also has an interest in these proceedings that is greater than the general public as it represents interest groups in the community that are likely to be affected by the proposed relief sought by the Respondent
4. HortNZ is not a trade competitor for the purposes of section 308C or 308CA of the RMA.
5. The parts of the proceedings HortNZ is interested in are:
6. Region-wide Objective:
  - (a) Objective 2
  - (b) Objective 6
  - (c) Objective 7
  - (d) Objective 9
  - (e) Objective 13
  - (f) Objective 13A
  - (g) Objective 13B
  - (h) Objective 18

7. Region Wide Policies:

- (a) Policy 6 – Gleyed, Bedrock / Hill Country and Lignite-Marine Terraces
- (b) Policy 10 – Oxidising
- (c) Policy 13 – Management of land use activities and discharges
- (d) Policy 15A – Maintain water quality where standards are met
- (e) Policy 15B – Improving water quality where standards are not met
- (f) Policy 15C – Maintaining and improving water quality after FMU processes
- (g) Policy 16 – Farming activities that affect water quality
- (h) Policy 20 – Management of water resources
- (i) Policy 39 – Application of permitted baseline
- (j) Policy 42 – Consideration of water permit applications
- (k) Policy 45 – Priority of FMU values, objectives, policies and rules
- (l) Policy 47 – FMU processes

8. Discharge Rules:

- (a) Rule 5 – Discharges from surface water bodies
- (b) Rule 13 – Discharges from subsurface drainage systems
- (c) Rule 14 – Discharge of fertiliser
- (d) Rule 20 – Farming
- (e) Rule 24 – Incidental Discharges from farming
- (f) Rule 25 – Cultivation

9. Glossary – Definitions

- (a) Sediment
- (b) Significant de-vegetation
- (c) Sloping Ground

10. Appendices

- (a) Appendix E – Receiving Water Quality Standards
- (b) Appendix K – Surface Water Appendix
- (c) Appendix N – Farm Environment Plan

11. The particular issues and whether HortNZ supports, opposes or conditionally opposes the relief sought are set out in the attached table.

12. HortNZ agrees to participate in mediation or other alternative dispute resolution of the proceedings.

A handwritten signature in blue ink, appearing to read 'R McClung', is positioned above the printed name.

**Rachel McClung**

Environmental Policy Advisor – South Island  
Horticulture New Zealand

14 / 06 / 2018

**Address for service:**

Horticulture New Zealand  
PO Box 10232, Wellington 6143  
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Contact person: Rachel McClung

**Advice**

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

## ATTACHMENT 1

Provision Appealed by Southland Fish and Game Council	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
Objective 2	390.FS 48.4, 279.5 752.18 and 803.7	Oppose	HortNZ supports the inclusion of enabling the social, economic and cultural wellbeing, including primary production. The appellant seeks to delete reference to primary production. However it is only an 'inclusion' not an exclusive activity. Given the importance of primary production to Southland it is appropriate that it is identified as a means to provide for the social, economic and cultural wellbeing. Deletion of primary production is opposed.
Objective 6	390.FS on 279.6, 752.22, 750.2, 210.27, 277.10 and 17.3	Oppose	Objective A2 of the NPSFM seeks that the overall quality of fresh water is maintained or improved. Objective 6 is consistent with the NPSFM.
Objective 7	390.FS on 752.23, 622.7 and 210.28	Oppose	The assessment of overallocation will be determined through the FMU process so it is inappropriate to amend Objective 7 as sought by the appellant.
Objective 9	390.3 and FS on 279.9 and 752.25	Oppose	Objective 9 is focused on s6 matters. Recreational values are not a s6 matter so it is inappropriate that they are included in Objective 9.
Objective 13	390.5 and FS on 279.12, 277.14 and 752.29	Oppose	HortNZ supports the enabling objective to use and development of land and soils to support the economic, social and cultural wellbeing of the region. The use of such resources is balanced through other objectives and policies so it is not necessary to amend the policy framework as sought by the appellant.

Provision Appealed by Southland Fish and Game Council	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
Objective 13A	390.5 and FS on 279.12, 277.14 and 752.29	Oppose	The appellant seeks the deletion of Objective 13A. The objective seeks to ensure that the soil resource is not degraded and HortNZ supports that objective.
Objective 13B	390.5 and FS on 279.12, 277.14 and 752.29	Oppose	The appellant seeks the deletion of Objective 13B. The objective seeks to ensure that the adverse effects on significant or cumulative human health are avoided and HortNZ supports that objective
Objective 18	390.6 and FS 277.16 and 661.10	Oppose	HortNZ supports the use of good management practices in the Plan and considers that Objective 18 provides an appropriate policy framework for the use of GMP's in the implementation of the Plan. Best practicable option is a different mechanism which is not the most appropriate mechanism for use in Farm Environmental Management Plans. Objective 18 seeks to maintain or improve quality and quantity of the regions water resources which is an appropriate policy approach.
Policy 6 – Gleyed, Bedrock / Hill Country and Lignite-Marine Terraces	390.9 and FS on 210.45	Oppose	HortNZ supports the approach in Policy 6 requiring implementation of good management practices to manage adverse effects on water quality. The use of best practicable option is inappropriate for farming activities.
Policy 10 – Oxidising	390.10 and FS on 752.44	Oppose	HortNZ supports the approach in Policy 10 requiring implementation of good management practices to manage adverse effects on water quality. The use of best practicable option is inappropriate for farming activities.

<b>Provision Appealed by Southland Fish and Game Council</b>	<b>Scope for s274 (HortNZ submission point reference)</b>	<b>Support / Oppose</b>	<b>Reasons</b>
Policy 13 – Management of land use activities and discharges	390.FS on 277.21 and 895.25	Oppose in part Support in part	HortNZ supports the inclusion of use and development of Southland’s land and water resources, including for primary production. The appellant seeks to delete reference to primary production. However it is only an ‘inclusion’ not an exclusive activity. Given the importance of primary production to Southland it is appropriate that it is identified as a means to provide for social, economic and cultural wellbeing. Deletion of primary production is opposed.
Policy 15A – Maintain water quality where standards are met	390.11 and FS on 17.19 and 265.46	Oppose	The decisions delete Policy 15 and replace it with three new policies. The restructured policies provide for a clearer process and framework and are consistent with the NPSFM.
Policy 15B – Improving water quality where standards are not met	390.11 and FS on 17.19 and 265.46	Oppose	The decisions delete Policy 15 and replace it with three new policies. The restructured policies provide for a clearer process and framework and are consistent with the NPSFM.
Policy 15C – Maintaining and improving water quality after FMU processes	390.11 and FS on 17.19 and 265.46	Oppose	The decisions delete Policy 15 and replace it with three new policies. The restructured policies provide for a clearer process and framework and are consistent with the NPSFM.
Policy 16 – Farming activities that affect water quality	390.13 and FS on 210.55, 572.1, 661.24 and 803.25	Oppose	HNZ supports the decision version of Policy 16 as it is an effects based approach, rather than the more restrictive regime sought by the appellant.

<b>Provision Appealed by Southland Fish and Game Council</b>	<b>Scope for s274 (HortNZ submission point reference)</b>	<b>Support / Oppose</b>	<b>Reasons</b>
Policy 20 – Management of water resources	390.14 and FS on 277.27, 265.50, 279.27 and 752.63	Oppose	The appellant seeks to delete reference to primary production. However it is only an ‘inclusion’ not an exclusive activity. Given the importance of primary production to Southland it is appropriate that it is identified as a means to provide for social, economic and cultural wellbeing. Deletion of primary production is opposed. HortNZ supports the inclusion of avoid, remedy or mitigate as it is consistent with the RMA.
Policy 39 – Application of permitted baseline	390.FS on 277.27	Oppose	HortNZ supports the appeal by Federated Farmers to delete Policy 39, rather than amend as sought by the appellant. A plan policy should not override a statutory discretion.
Policy 42 – Consideration of water permit applications	390.FS on 330.9 and 797.28	Oppose	Policy 42 states the matters to be considered for resource consents for water permits, including the issue of over-allocation. HortNZ supports the policy approach as it provides consideration of the specific situation.
Policy 45 – Priority of FMU values, objectives, policies and rules	390.19 and FS 277.38	Oppose	There needs to be clarity about the relationship between the FMU sections and region wide sections of the Plan. HortNZ supports the approach in the decisions as it clearly sets out the relationship and that the FMU cannot override the region wide provisions.
Policy 47 – FMU processes	390.20 and FS on 265.50 and 562.10	Oppose	There needs to be clarity about the relationship between the FMU sections and region wide sections of the Plan. HortNZ supports the approach in the decisions as it clearly sets out the relationship and that the FMU cannot override the region wide provisions. Policy 47 sets out



Provision Appealed by Southland Fish and Game Council	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
			how the FMU process will implement the NPSFM and this approach is supported.
Rule 5 – Discharges from surface water bodies	390.21 and FS on 17.25, 48.30 and 265.74	Support in part	Deletion of clause 3 providing an exemption for territorial authorities is supported.
Rule 13 – Discharges from subsurface drainage systems	390.27 and FS 249.20, 247.8, 279.63, 622.18 and 752.105	Oppose	Rule 13 includes a range of standards that need to be met for an activity to be permitted. The additional condition sought by the appellant is uncertain as a condition in a permitted activity rule. The conditions in the decisions version address the concern of the appellant. A non-complying activity status where Rule 13 conditions cannot be met is unnecessary to assess the effects of the activity.
Rule 14 – Discharge of fertiliser	390.28 and FS 249.21, 265.80, 661.35 and 698.4	Oppose	The appellant seeks inclusion of ephemeral or intermittent rivers in Rule 14 for all fertiliser applications. HortNZ has appealed Rule 14 to ensure that good management practices are used for discharge of fertilisers but does not consider that ephemeral or intermittent rivers should be included in Rule 14.
Rule 20 – Farming	390.29 and FS 62.8, 100.2, 210.82, 247.9, 361.8, 572.2, 661.37, 752.112, 803.38, and 832.21	Oppose	The plan focuses on the key issues for water quality in Southland and Rule 20 provides a framework for addressing the identified issues for farming activities, through the use of good management practices. This approach is supported and the changes sought by the appellant would be more restrictive and unworkable, including the use of best practicable option.

<b>Provision Appealed by Southland Fish and Game Council</b>	<b>Scope for s274 (HortNZ submission point reference)</b>	<b>Support / Oppose</b>	<b>Reasons</b>
			A non-complying activity is unnecessary to assess the effects of the activity where the standards in the Rule are not met
Rule 24 – Incidental Discharges from farming	390.FS on 279.70 and 752.117	Oppose	Rule 24 includes a range of standards that need to be met for an activity to be permitted. The additional conditions sought by the appellant are uncertain as a condition in a permitted activity rule. The conditions in the decisions version address the concern of the appellant.
Rule 25 – Cultivation	390.30 and FS 279.71, 190.14, 265.88, and 752.118	Oppose in part	The appellant seeks to increase setbacks based on slope for all cultivation. HortNZ has appealed Rule 25 to ensure that good management practices are used for cultivation which is more effects based than requiring mandatory setbacks. HortNZ supports in part the deletion of b) if it is replaced with good management practices.
Sediment	390.	Oppose in part	The term sediment is used throughout the plan but there is no definition and there does not appear to be any submission that sought a definition. The appellant identifies in 6 uu) of the appeal that there is no definition but one is requested to be inserted. Given that the whole plan process has been undertaken on the basis of a common understanding it is unclear what value there is for a definition to be included at this stage.
Significant de-vegetation	390.45	Oppose in part	The notified version of the Plan had a definition for significant de-vegetation that HortNZ sought be deleted. The definition is not shown as a strikethrough in the Decisions version of the Plan. The appellant

Provision Appealed by Southland Fish and Game Council	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
			seeks that a definition be included that is linked to de-vegetation caused by stock access or grazing, rather than all farming activities. If a definition is to be introduced HortNZ supports the more targeted approach.
Sloping Ground	390.30	Oppose	The appellant identifies in 6 ww) of the appeal that there is no definition but one is requested to be inserted. Given that the whole plan process has been undertaken on the basis of a common understanding it is unclear what value there is for a definition to be included at this stage. Where sloping ground may be referred to in rules is a more appropriate place to include specific slopes that are relevant to the specific situation.
Appendix E – Receiving Water Quality Standards	390.FS on 17.45, 190.21, 265.107, 279.116 and 752.180	Oppose	The appellant seeks to improve the water clarity and MCI standard. The current plan requires that where these standards are met, water quality is maintained and where they are not met, water quality is improved. HortNZ considers any further amendments to the content of Appendix E should await the freshwater objectives and water quality limit setting process that Council will undertake as part of its FMU process.
Appendix K – Surface Water Appendix	390.FS on 210.98 and 414.12	Oppose	HortNZ has an interest in Appendix K. The matters of appeal are unclear and we are uncertain of the relief is being sought.
Appendix N – Farm Environment Plan	390.38 and FS on 62.15, 190.22,	Oppose	The changes sought by the appellant would increase the complexity, workability and practicality of the Farm Environmental Management

Provision Appealed by Southland Fish and Game Council	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
	241.6, 247.32, 414.13, 661.43, 725.190 and 803.43		Plans. These plans need to be clear and targeted at the effects to be managed. HortNZ supports consistency of FEMP across the country to assist industry organisations assisting farmers and growers to develop and implement such plans.