

**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)

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

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

(Continued next page)

**STATEMENT OF REBUTTAL EVIDENCE OF MATTHEW MCCALLUM-
CLARK ON BEHALF OF THE SOUTHLAND REGIONAL COUNCIL
27 May 2019**

Judicial Officer: Judge Borthwick

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**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 Act 1991
(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

- 1 My full name is Matthew Eaton Arthur McCallum-Clark.
- 2 My qualifications and experience are set out in my Statement of Evidence in Chief dated 14 December 2018, except that in the time since my Statement of Evidence in Chief was prepared, my Making Good Decisions Programme Certification has lapsed, and I am booked on a course for recertification in the near future.
- 3 As with my Evidence in Chief, I confirm that I have read and am familiar with the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014. I agree to comply with that Code. Other than where I state that I am relying on the evidence of another person, my evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of Rebuttal Evidence

- 4 In my rebuttal evidence I provide a response on a topic basis, organised sequentially for each relevant objective and policy. For clarity, the relevant evidence I have responded to for each topic is:

Objective 2

- (a) Evidence in Chief of Treena Davidson for Ngā Rūnanga;¹
- (b) Evidence in Chief of Ben Farrell for Fish & Game and Forest & Bird; and
- (c) S274 Evidence of Lynette Wharfe for Horticulture NZ.

Objective 6

- (a) Joint Witness Statement – Water Quality and Ecology (Rivers and Wetlands); and
- (b) Evidence in Chief of Ben Farrell for Fish & Game and Forest & Bird.

¹ Waihopai Rūnaka, Hokonui Rūnaka, Te Rūnanga o Awarua, Te Rūnanga o Oraka Aparima, and Te Rūnanga o Ngāi Tahu

Objective 7

- (a) Evidence in Chief of Ben Farrell for Fish & Game and Forest & Bird; and
- (b) Joint Witness Statement – Water Quality and Ecology (Rivers and Wetlands).

Objectives 9 and 9A

- (a) Evidence in Chief of Ben Farrell for Fish & Game and Forest & Bird;
- (b) S274 Evidence of Gerard Willis for DairyNZ/Fonterra;
- (c) S274 Evidence of Lynette Wharfe for Horticulture NZ;
- (d) Evidence in Chief of Kathryn McArthur for Forest & Bird;
- (e) Evidence in Chief of Treena Davidson for Ngā Rūnanga;
- (f) S274 Evidence of Linda Kirk for the Director-General of Conservation; and
- (g) S274 Evidence of Janan Dunning for the Territorial Authorities.

Objective 9B

- (a) S274 Evidence of Ben Farrell for Fish & Game and Forest & Bird;
- (b) Evidence in Chief of Treena Davidson for Ngā Rūnanga;
- (c) Evidence in Chief of Darryl Sycamore for Federated Farmers;
- (d) S274 Evidence of Lynette Wharfe for Horticulture NZ; and
- (e) S274 Evidence of Linda Kirk for the Director-General of Conservation.

Objective 10

- (a) Evidence in Chief of Treena Davidson for Ngā Rūnanga; and
- (b) Evidence in Chief of Claire Jordan for Aratiatia Livestock Ltd.

Objectives 13, 13A and 13B

- (a) S274 Evidence of Sue Ruston for Ballance;
- (b) S274 Evidence of Linda Kirk for the Director-General of Conservation;

- (c) S274 Evidence of Lynette Wharfe for Horticulture NZ;
- (d) Evidence in Chief of John Kyle for Alliance; and
- (e) Rebuttal evidence of Ben Farrell for Fish & Game and Forest & Bird.

Objective 18

- (a) S274 Evidence of Gerard Willis for DairyNZ/Fonterra;
- (b) Evidence in Chief of John Kyle for Alliance; and
- (c) S274 Evidence of Ben Farrell for Fish & Game and Forest & Bird.

Policies 4, 5, 6, 9, 10, 11 and 12 (“the Physiographic Zone Policies”)

- (a) Evidence in Chief of Darryl Sycamore for Federated Farmers;
- (b) Evidence in Chief of Ben Farrell for Fish & Game and Forest & Bird;
- (c) S274 Evidence of Linda Kirk for the Director-General of Conservation; and
- (d) Evidence in Chief of Treena Davidson for Ngā Rūnanga.

Policy 45

- (a) Evidence in Chief of Ben Farrell for Fish & Game and Forest & Bird.

Objective 2

5 I have read and considered the evidence of Ms Davidson², Mr Farrell³ and Ms Wharfe⁴ with respect to Objective 2. Overall, I maintain my general opinion that it is appropriate to include ‘primary production’ in this objective, and also that such an inclusion is unlikely to be significant with respect to the overall outcomes that the proposed Southland Water and Land Plan (**pSWLP**) seeks to achieve.

² EIC of Treena Davidson (corrected), dated 18 April 2019, at [52 – 60].

³ EIC of Ben Farrell, dated 17 February 2019, at [56 - 70].

⁴ EIC of Lynette Pearl Wharfe, dated 15 March 2019, at [5.1 – 5.22].

- 6 The evidence lodged appears to primarily focus on the nature of the inclusion of 'primary production' and its location within the Objective. Ms Davidson, Mr Farrell and Ms Wharfe all suggest the shifting of such a phrase to the end of the Objective, as an inclusive statement, and within brackets. While again I restate that it is unlikely to have a significant bearing on outcomes, I support this solution, as it continues to recognise the significant role of primary production in the Southland economy, but does not give it any status above economic, social and cultural wellbeing.
- 7 Mr Farrell suggests replacement of primary production with "productive economic opportunities" and to include "within limits" at the end of the Objective.⁵ Again, while it does not make a significant difference to the outcomes, in my opinion reference to primary production is more appropriate, given its significance to the Southland economy.
- 8 In my opinion, "within limits" is not a necessary or helpful addition to this Objective. The Objective is about 'recognising' water and land as enablers of economic, social and cultural wellbeing. Mr Farrell's "within limits" concept would mean that "limits" would apply to either recognition, enabling or wellbeing, depending on the interpretation of the Objective. If the Objective was about the use of a resource, then "within limits" may be an appropriate addition. However, I do not consider that limiting the ability to recognise wellbeing or limit wellbeing itself is aligned with Part 2 of the RMA.

Objective 6

- 9 I have read and considered the Joint Witness Statement – Water Quality and Ecology (Rivers and Wetlands) dated 7 – 9 May 2019. I accept the view of those experts that maintaining or improving water quality, as required by Objective 6, may not be possible without interim thresholds to determine degraded sites, and that changes will be needed to the pSWLP, potentially through adjustments to Appendix E to make these standards appropriate for use as interim thresholds.⁶

⁵ EIC of Ben Farrell, dated 17 February 2019, at [70].

⁶ Joint Witness Statement – Water Quality and Ecology (Rivers and Wetlands) dated 7 – 9 May 2019, at [23].

- 10 Mr Farrell has recommended giving consideration to amending Objective 6 to include reference to region-wide numeric outcomes as a bottom line for ecosystem health.⁷ I do not agree with this approach. While Mr Farrell does not propose revised wording for Objective 6, in my opinion, objectives are statements of what is to be achieved, whereas policies are the courses of action. In my opinion, interim thresholds are better provided for through amendments to the policies which are to achieve Objective 6, and to Appendix E, which already contains water quality standards (albeit for a different purpose).
- 11 In the pSWLP, Policies 15A and 15B provide direction on what ‘maintain’ and ‘improve’ mean in relation to the existing water quality standards in Appendices C and E. Policy 16 also provides guidance on meeting Objective 6 in relation to managing farming activities. In my opinion, amendment of these policies, as a part of Topic B, is the appropriate place for further defining what ‘maintain’ and ‘improve’ mean, how that will be achieved, and the appropriate references to interim thresholds.

Objective 7

- 12 Mr Farrell has recommended the following additional wording to the end of Objective 7 to avoid further over-allocation prior to the establishment of freshwater objectives and limits: “...or earlier where the resource is being used to a point where a region-wide freshwater numeric outcome(s) are no longer being met.”⁸ I do not consider this is necessary or appropriate for two reasons.
- 13 First, I agree with the conclusion of the experts in the Joint Witness Statement that without freshwater objectives and limits, the term “over-allocation” in the NPSFM cannot be applied.⁹ That conclusion aligns with my Evidence in Chief, the Evidence in Chief of Mr Willis¹⁰ and the conclusions of the Hearing Panel, based on the legal advice received. The experts have instead referred to degradation, which aligns with the wording of Objective 6.

⁷ EIC of Ben Farrell, dated 17 February 2019, at [83].

⁸ EIC of Ben Farrell, dated 17 February 2019, at [96].

⁹ Joint Witness Statement – Water Quality and Ecology (Rivers and Wetlands) dated 7 – 9 May 2019, at [21].

¹⁰ EIC of Gerard Willis, dated 15 March 2019, at [8.6 – 8.7].

- 14 Second, in my opinion, Objective 6 provides direction on managing water quality both prior to and after freshwater objectives and limits are set, in particular requiring improvements where water quality is considered to be degraded. Objective 7 applies in addition to Objective 6, but only once freshwater objectives and limits have been established (in this instance through the future Freshwater Management Unit (**FMU**) process). In my view, the amendments sought by Mr Farrell would blur the boundary between Objectives 6 and 7.

Objective 9 and 9A

- 15 I have read and considered the evidence of Mr Willis¹¹ and Ms Wharfe¹² with respect to the inclusion of recreation values in Objective 9.
- 16 I agree that Objective A3 of the NPSFM relates to water quality. The NPSFM was amended in 2017 to, in part, respond to issues with respect to water quality by including a new “swimmability” framework. However, I also agree with Mr Farrell who notes that water quantity and, in particular, the availability of water in-stream is a critical component of being able to utilise water bodies for recreational values¹³. In my opinion, while Objective A3 relates to water quality, the NPSFM 2017 amendments do put greater weight on safe recreational use of water bodies. That said, I also agree with Mr Willis¹⁴ that “safeguarded” sets a high threshold, which may not be necessary for recreational values for all water bodies.
- 17 I have considered the evidence of Ms McArthur, supported by Mr Farrell, who does not agree that the margins of water bodies are adequately covered by Objective 17,¹⁵ as I suggested in my Evidence in Chief. Ms McArthur raises primarily ecological issues with respect to the consideration of the margins of waterbodies. For clarity, I consider that the margins of waterbodies are not of ‘secondary’ importance generally, but in the assessment of the adverse effects of a water take, effects on the waterbody margins could be considered as a ‘secondary’ effect.

¹¹ EIC of Gerard Willis, dated 15 March 2019, at [9.3 - 9.7].

¹² EIC of Lynette Pearl Wharfe, dated 15 March 2019, at [8.7].

¹³ EIC of Ben Farrell, dated 17 February 2019, at [98 - 103].

¹⁴ EIC of Gerard Willis, dated 15 March 2019, at [9.5].

¹⁵ EIC of Ben Farrell, dated 17 February 2019, at [119].

That said, given the evidence of Ms McArthur and others to the effect that margins of waterbodies are not particularly well addressed in the objectives, I now agree that margins ought to be included.

- 18 In my Evidence in Chief I set out that Objectives 9 and 9A were notified as a single objective that was split into two in the decisions version of the pSWLP. This was on the basis that there was inherently a strong element of prioritisation between the two, due to the particular words used.¹⁶ Also in my Evidence in Chief, I questioned whether this inherent prioritisation between Objectives 9 and 9A was too subtle, and considered that re-merging them would remove any doubt, and would make the direction clearer and easier to interpret.
- 19 I note that Mr Farrell¹⁷, Ms Davidson¹⁸ and Ms Kirk¹⁹ support my suggestion to re-merge Objectives 9 and 9A. In his rebuttal evidence, Mr Farrell has suggested wording for a revised Objective 9.²⁰ I agree in part with his suggestions, and suggest Objectives 9 and 9A are re-merged as follows:

The quantity of water in surface waterbodies is managed so that:

(a) aquatic ecosystem health, life-supporting capacity, outstanding natural features and landscapes and natural character of waterbodies and their margins are safeguarded, and recreational values are maintained or enhanced; and

(b) provided that (a) is met, surface water is sustainably managed to support the reasonable needs of people and communities to provide for their social, economic and cultural wellbeing.

- 20 For completeness, I note that Mr Dunning disagreed with the notified version of the Objective and particularly the prioritisation of environmental values over human use values and does not support re-merging the two Objectives.²¹ I do not agree with that view. Objective A1 of the NPSFM and s5 of the RMA is clear that some environmental

¹⁶ EIC of Matthew McCallum-Clark, dated 14 December 2018, at [94-95].

¹⁷ EIC of Ben Farrell, dated 17 February 2019, at [97].

¹⁸ EIC (corrected) of Treena Davidson, dated 18 April 2019, at [77].

¹⁹ EIC of Linda Kirk, dated 1 March 2019, at [25].

²⁰ Rebuttal Evidence of Ben Farrell, dated 15 May 2019, at [29].

²¹ EIC of Janan Dunning, dated 22 May 2019, at [34].

values are to be safeguarded when using and developing land, or using resources, such as water. As such, I consider it is appropriate for Objectives 9 and 9A (whether together or split) to contain a clear prioritisation.

Objective 9B

- 21 A number of witnesses have commented on the use of 'enable' within Objective 9B. All of the witnesses, with the exception of Mr Dunning, consider that the use of 'enable' should either be accompanied by a qualifying statement about the management of adverse effects (Mr Farrell²² and Ms Davidson²³) or that 'enable' should be replaced with 'recognise and provide for' (Mr Sycamore,²⁴ Ms Wharfe²⁵ and Ms Kirk²⁶).
- 22 I agree with Mr Sycamore, Ms Wharfe and Ms Kirk that 'recognise and provide for' will appropriately give effect to the higher order documents, particularly Policy INF.1 of the Southland Regional Policy Statement which is to:
- Recognise the benefits to be derived from, and make provision for, the development, maintenance, upgrade and ongoing operation of regionally significant, nationally significant and critical infrastructure and associated activities.* (My emphasis added).
- 23 If 'enable' is to be retained, I agree with Mr Farrell and Ms Davidson that a qualifier is useful to make it clear that enabling infrastructure activities is expected to occur with consideration of any potentially adverse effects which may occur as a result. However, I consider such a qualifier is less important if the wording is changed to 'recognise and provide for'. Policies 26 and 26A provide additional guidance on how Objective 9B is to be achieved, including, in the case of Policy 26A, specific reference to management of adverse effects (noting that Policies 26 and 26A will be considered as part of Topic B).

²² EIC of Ben Farrell, dated 1 March 2019, at [14].

²³ EIC (corrected) of Treena Davidson, dated 18 April 2019, at [89-90].

²⁴ EIC of Darryl Sycamore, dated 15 February 2019, at [17-18].

²⁵ EIC of Lynette Wharfe, dated 15 March 2019, at [8.42].

²⁶ EIC of Linda Kirk, dated 1 March 2019, at [42-43].

Objective 10

24 Objective 10 provides for and recognises the national importance of existing hydro-electric generation schemes, including the Manapōuri hydro-electric generation scheme. I agree with Ms Davidson²⁷ and Ms Jordan²⁸ that not all hydro-electric generation schemes are nationally important. Further, I am not aware of any other hydro-electric generation schemes in Southland, outside the Manapōuri hydro-electric generation scheme, that could be considered nationally important. I therefore agree with Ms Davidson²⁹ that Objective 10 should be amended to reflect that it provides specifically for the Manapōuri hydro-electricity generation scheme.

Objective 13, 13A, 13B

25 In my Evidence in Chief, I explored the possible benefits of re-emerging Objectives 13, 13A and 13B and reintroducing the as-notified 13(c).³⁰ Most other planning experts generally agree re-merging would be positive,³¹ but there are varied views on some issues and complete wording of a re-merged objective has only been provided by Mr Farrell in his Rebuttal Evidence.³²

26 While I generally agree with the suggestions of Mr Farrell, I consider his version could be improved by a greater emphasis on the outcomes to be achieved, particularly in relation to the last two sub-clauses of the Objective, and through adjustment of the human health effects threshold, as raised by several witnesses.³³ On this basis, potential wording for this re-merged Objective is:

Enable the use and development of land and soils to support the economic, social and cultural wellbeing of the region provided that:

²⁷ EIC (corrected) of Treena Davidson, dated 18 April 2019, at [96].

²⁸ EIC of Claire Jordan, dated 15 February 2018 (sic), at [26].

²⁹ EIC (corrected) of Treena Davidson, dated 18 April 2019, at [104].

³⁰ EIC of Matthew McCallum-Clark, dated 14 December 2018, at [146-156].

³¹ Including EIC of Sue Ruston, dated 22 March 2019, at [66], S274 Evidence of Linda Kirk, dated 1 March 2019, at [59], EIC of Lynette Wharfe, dated 15 March 2019, at [9.26], and Rebuttal evidence of Ben Farrell, dated 15 May 2019, at [33].

³² Rebuttal evidence of Ben Farrell, dated 15 May 2019, at [33].

³³ Including EIC of Lynette Wharfe, dated 15 March 2019, at [9.26], EIC of Sue Ruston, dated 22 March 2019, at [73], and EIC of John Kyle, dated 15 February 2019, at [3.8].

- (a) *The quantity, quality and structure of soil resources are not irreversibly degraded through land use activities or discharges to land; and*
- (b) *The discharges of contaminants to land or water that have ~~significant or cumulative~~ more than minor adverse effects, including cumulatively, on human health are avoided; and*
- (c) *Ecosystems (including indigenous biological diversity and integrity of habitats), are safeguarded; and*
- (d) *Recreation values, cultural values and historic heritage values are maintained or enhanced.*

Objective 18

27 In my Evidence in Chief, I outlined that the intent of Objective 18 is to provide a high-level expectation of behaviour for all activities.³⁴ I agree with Mr Kyle that the term “good management practice” has currency in a farming context but do not support his suggestion to narrow the definition of “good management practice” so that it relates only to farming activities.³⁵ That would not set the expectation that all activities operate at what I have described as “good environmental practice” in my Evidence in Chief.³⁶

28 After decisions were made on the pSWLP, the Government, in collaboration with primary sector organisations and regional councils, released a series of “Good Farming Practice principles” and an accompanying Action Plan for implementing these principles.³⁷ I understand that these principles are based on the original “Industry-Agreed Good Management Practices” first applied in Canterbury, which were also the foundation for the use of “good management practices” in the pSWLP, but that the Good Farming Practice principles have been developed to be applicable across all regions of New Zealand.³⁸ If the Court is minded to focus Objective 18 only on farming activities, I

³⁴ EIC of Matthew McCallum-Clark, dated 14 December 2018, at [195].

³⁵ EIC of John Kyle, dated 15 February 2019, at [4.2, 4.7].

³⁶ EIC of Matthew McCallum-Clark, dated 14 December 2018, at [194].

³⁷ <https://www.beehive.govt.nz/release/good-farming-practice-plan-step-forward-water-quality>

³⁸ <https://www.mfe.govt.nz/fresh-water/we-all-have-role-play/land>

consider that “Good Farming Practice” may be an appropriate alternative that aligns with the latest developments in this field and avoids difficulties with definitions.

- 29 Mr Farrell has suggested additions to Objective 18 to require all activities to implement the “best practicable option”.³⁹ That is a term that has a specific definition in the RMA linked to the discharge of a contaminant or emission of noise. I do not consider it would be appropriate to use that term in the way Mr Farrell suggests. I also agree with Mr Kyle that specific reference to “best practicable option” is not necessary in Objective 18 as it is already required by Policy 16A.⁴⁰ I consider this type of specific course of action is best provided through a policy rather than an objective, particularly as Objective 18 has, in my opinion, been drafted to apply at a more general, higher level.

Physiographic Zones

- 30 Generally, I maintain my position on Policies 4, 5, 6, 9, 10, 11 and 12 (“the Physiographic Zone Policies”), however there are three matters I wish to address:
- (a) Mr Sycamore’s position that sub-clause 3 (which provides direction on decision-making on resource consent applications) in all of the policies except Policy 4 is not required;⁴¹
 - (b) Mr Farrell, Ms Kirk and Ms Davidson’s views on the use of the wording “generally not grant” in sub-clause 3 of all of the policies;⁴² and
 - (c) Mr Farrell’s position that the Physiographic Zone maps should be included in the pSWLP.⁴³
- 31 Mr Sycamore considers that the directive ‘arm’ of these policies (which, for all but Policy 6, occurs through sub-clause 3) is unnecessary and that the information about contaminant pathways in sub-causes 1 and 2

³⁹ EIC of Ben Farrell, dated 1 March 2019, at [133].

⁴⁰ EIC of John Kyle, dated 15 February 2019, at [4.7].

⁴¹ EIC of Darryl Sycamore, dated 15 February 2019, at [41-58].

⁴² EIC of Ben Farrell, dated 17 February 2019, at [155].

⁴³ EIC of Ben Farrell, dated 17 February 2019, at [151.2], EIC of Treena Davidson, dated 15 February 2019, at [135], EIC of Linda Kirk, dated 15 February 2019, at [36].

provide decision-makers with sufficient information to determine the appropriate management approach.⁴⁴ Mr Rodway has presented the evidence which has established the high relative contaminant losses from the activities that are the focus of this direction on decision-making (expanded dairy farming and intensive winter grazing).⁴⁵ As set out in my Evidence in Chief, the specific wording of these policies was traversed at length through the Section 42A report, evidence of submitters and questioning at the hearing. Given the evidence about the relative contribution of these activities to overall contaminant losses in Southland, I maintain it is appropriate for the Physiographic Zone Policies to provide specific direction on managing these activities. Additionally, I consider that this level of specificity and direction is required in order to implement the overall direction of the pSWLP to “halt further decline in water quality.”

- 32 In regard to the specific wording of sub-clause 3, Mr Farrell considers that the wording should direct that decision-makers “not grant” resource consent.⁴⁶ Ms Kirk supports this view.⁴⁷ I note that it was evident through the hearing process that many submitters sought the ability to change or expand their operations if they could appropriately manage their adverse effects. In my opinion, the wording of the policy appropriately recognises that, in order to halt the further decline in water quality, these activities should generally not be granted consent (subject to the additional direction provided through other policies in the pSWLP, such as Policy 16), but there may be circumstances where granting consent is appropriate. In my opinion, the wording suggested by Mr Farrell would logically result in a prohibited activity status. As is discussed in Mr Snelder’s evidence⁴⁸, and was explored at length in the hearing, the mapping of Physiographic zones does not support the farm-scale accuracy required for a prohibited activity status. For these reasons, I do not agree with Mr Farrell.
- 33 Ms Davidson has considered the use of Physiographic zones in the pSWLP and has concluded that while they are not suitable for use in a

⁴⁴ EIC of Darryl Sycamore, dated 15 February 2019, at [41].

⁴⁵ EIC of Ewen Rodway, dated 14 December 2018, at [97 - 114].

⁴⁶ EIC of Ben Farrell, dated 17 February 2019, at [156.4].

⁴⁷ EIC of Linda Kirk, dated 1 March 2019, at [92d].

⁴⁸ EIC of Antonius Snelder, dated 14 December 2018, at [43-51].

rule framework, stronger and more directive language in the Physiographic Zone Policies would better maintain the integrity of the scientific information underpinning the provisions and guide decision-making on resource consent applications.⁴⁹ To this end, she prefers the wording “strongly discouraging” rather than “generally not granting” resource consents for expanded dairy farming and intensive winter grazing. For the reasons she has outlined, and the reasons outlined in my Evidence in Chief in relation to DOC’s appeal on this aspect of the wording of Policy 4, I consider “strongly discourage” could provide clearer direction to decision-makers than “generally not grant”.

- 34 As Mr Farrell correctly observes, maps of the Physiographic Zones were included in the pSWLP as notified, but were not carried through to the decision version. Mr Farrell considers it is appropriate for them to be included.⁵⁰ In the notified version of the pSWLP, the Physiographic Zones were used, in part, to dictate activity classifications in some rules. The maps were included to support the implementation of those rules. In my view, as the Physiographic Zones are now used to form part of the material available to inform the resource consent process on a case-by-case basis, it is not necessary to include them in the pSWLP.

Policy 45

- 35 I have read and considered the evidence of Mr Farrell in regard to the relationship between the region-wide provisions of the pSWLP and the future FMU-specific provisions anticipated by Policy 45.⁵¹ In my Evidence in Chief, I stated that I considered it was appropriate for FMU processes to determine the objectives and policies at the local scale, whether these are more or less lenient than the region-wide provisions (noting that in any event, all provisions will be required to give effect to the NPSFM). I have not changed my view and therefore do not agree with the amendments to Policy 45 proposed by Mr Farrell⁵² which would allow for only more stringent provisions in the FMU sections of the Plan.

⁴⁹ EIC of Treena Davidson, dated 15 February 2019, at [132 - 134].

⁵⁰ EIC of Ben Farrell, dated 17 February 2019, at [155].

⁵¹ EIC of Ben Farrell, dated 17 February 2019, at [158-176].

⁵² EIC of Ben Farrell, dated 17 February 2019, at [175].

36 The Council has begun the process to establish FMU-scale freshwater objectives and limits through its People, Water and Land Programme. In particular, this has led to the establishment of a Regional Forum comprised of community representatives who will lead the work to identify values and develop freshwater objectives for each FMU.⁵³ In my opinion this is a robust and appropriate method to assist the Council to meet its obligations under Policy CA2 of the NPSFM. If Mr Farrell's suggestion was implemented, I consider that it could have the effect of disempowering these community representatives who have been appointed to make recommendations to the Council on values and appropriate freshwater objectives at the relevant local scales. There is a risk that this would lead to disengagement in the process by these representatives, and potentially by the wider community.

Miscellaneous

37 Mr Farrell states that he understands the Council did not publicly notify regional 'swimmability' targets by 31 December 2018 as required by the NPSFM.⁵⁴ This is incorrect. The Council resolved at its meeting on 12 December 2018 to set final regional targets.⁵⁵ These targets are publicly available on the Council's website.⁵⁶

DATED this 27 day of May 2019



Matthew McCallum-Clark

⁵³ <https://waterandland.es.govt.nz/about/regional-forum>

⁵⁴ EIC of Ben Farrell, dated 17 February 2019, at [54].

⁵⁵ Minutes – Ordinary Meeting of Council, dated 12 December 2018, at page 7

⁵⁶ <https://www.es.govt.nz/council/news-and-notice/Pages/default.aspx?newsItem=id:24dv2vdl17q9stg21sb>