

**BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I MUA I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

UNDER the Resource Management Act
1991

IN THE MATTER of appeals pursuant to clause
14 of the First Schedule to the
Act

BETWEEN **Southland Fish and Game
Council**
(ENV-2018-CHC-37)

**Royal Forest and Bird
Protection Society of New
Zealand Inc**
(ENV-2018-CHC-50)

**Federated Farmers of New
Zealand**
(ENV-2018-CHC-40)

AND **Southland Regional Council**

**MEMORANDUM OF COUNSEL FOR BALLANCE AGRI-
NUTRIENTS LIMITED**

22 FEBRUARY 2022


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MAY IT PLEASE THE COURT

1. This Memorandum of Counsel is filed on behalf of Ballance Agri-Nutrients Limited (**Ballance**) in response to the directions set out at [42] in the Court Minute dated 15 February 2022 (**Minute**).
2. One statement of evidence has been filed on behalf of Ballance, by Susan Ruston (planning).
3. Counsel confirms that Ms Ruston's evidence-in-chief will not be amended, as:
 - (a) No further agreement has been reached on the disputed provisions in relation to Ballance's interests ([42](e)); and
 - (b) Ms Ruston qualified herself as an expert in her evidence-in-chief ([42](f)(i)).
4. Ms Ruston states in the background section of her evidence-in-chief (at [14](j)) that she has considered will say statements in preparing her evidence. However, as these will say statements are not referred to in the body of her evidence, Counsel does not consider that the Court's attention should be drawn to any relevant pages and/or paragraphs of the will say statements (direction at [42](f)(iii) of the Minute).
5. A final version of Ballance's relief sought is attached as Appendix 1 to this Memorandum of Counsel ([42](f)(ii)).

DATED this 22nd day of February 2022



Megan Exton
Counsel for Ballance Agri-Nutrients Limited

Appendix 1

Final version of relief sought

Text in **red** is the JWS-Planning agreed amendments (relative to the decisions version of the pSWLP) and the text in **blue** is Ms Ruston's proposed corrections and minor amendments to the JWS-Planning agreed amendments. Strikethroughs represent recommended deletions and underlined text represent recommended additions.

GLOSSARY

Critical source area

- (a) a landscape feature like ~~an ephemeral flow path~~, a gully, swale or a depression ~~(including ephemeral flow paths)~~ that accumulates runoff (sediment and nutrients) from adjacent flats and slopes, and delivers it to surface water bodies (including lakes, rivers, artificial watercourses and modified watercourses) or subsurface drainage systems. ~~;~~ **and**
- (b) a non-landscape feature that has high levels of contaminant losses, such as, silage pits, fertiliser storage areas, stock camps and laneways.**
- ~~(b) areas which arise through land use activities and management approaches (including cultivation and winter grazing) which result in contaminants being discharged from the activity and being delivered to surface water bodies.~~

Ephemeral rivers

~~Rivers which only contain flowing or standing water following rainfall events or extended periods of above average rainfall~~

Minimise

Minimise means to reduce to the smallest amount reasonably practicable.

POLICY 13 - MANAGEMENT OF LAND USE ACTIVITIES AND DISCHARGES

1. Recognise that the use and development of Southland's land and water resources, ~~including for primary production,~~ enables people and communities to provide for their social, economic and cultural wellbeing.
2. Manage land use activities and discharges (point source and non-point source) to enable the achievement of Policies 15A, 15B and 15C.

POLICY 15A - MAINTAIN WATER QUALITY WHERE STANDARDS ARE MET

Where existing water quality meets the Appendix E Water Quality Standards or bed sediments meet the Appendix C ANZECC sediment guidelines, maintain water quality including by:

1. ~~avoiding, where reasonably practicable, or otherwise remedying or mitigating any the adverse effects of new discharges, so that beyond the zone of reasonable mixing, those standards or sediment guidelines will continue to be met (beyond the zone of reasonable mixing for point source discharges); and~~
2. ~~Requiring any application for replacement of an expiring discharge permit to demonstrate how the adverse effects of the discharge are avoided, remedied or mitigated, so that beyond the zone of reasonable mixing those standards or sediment guidelines will continue to be met.~~

POLICY 15B - IMPROVE WATER QUALITY WHERE STANDARDS ARE NOT MET

Where existing water quality does not meet the Appendix E Water Quality Standards or bed sediments do not meet the Appendix C ANZECC sediment guidelines, improve water quality including by:

1. ~~avoiding where practicable and otherwise remedying or mitigating any adverse effects of new point source discharges to surface water on water quality or sediment quality that would exacerbate the exceedance of those standards or sediment guidelines beyond the zone of reasonable mixing; and~~
 - 1a. avoiding where reasonably practicable and otherwise remedying or mitigating any adverse effects of other new discharges on water quality or sediment quality that would exacerbate the exceedance of those standards or sediment guidelines; and
2. ~~requiring any application for replacement of an expiring discharge permit to demonstrate how and by when adverse effects will be avoided where reasonably practicable and otherwise remedied or mitigated, so that beyond the zone of reasonable mixing water quality will be improved to assist with meeting those standards or sediment guidelines (beyond the zone of reasonable mixing for point source discharges).~~

POLICY 15C - MAINTAINING AND IMPROVING WATER QUALITY AFTER FMU PROCESSES

~~Following the establishment of freshwater objectives and limits under Freshwater Management Unit processes, and including through implementation of non-regulatory methods, improve water quality where it is degraded to the point where freshwater objectives are not being met and otherwise maintain water quality where freshwater objectives are being met.~~

POLICY 16 - FARMING ACTIVITIES THAT AFFECT WATER QUALITY

1. ~~Minimising Avoid where practicable, or otherwise minimise any the adverse environmental effects (including on the quality of water in lakes, rivers, artificial watercourses, modified watercourses, wetlands, tidal estuaries and salt marshes, and groundwater) from farming activities by:~~
 - ~~(a) discouraging the establishment of new dairy farming of cows or new intensive winter grazing activities in close proximity to Regionally Significant Wetlands and Sensitive Waterbodies identified in Appendix A; and~~
 - ~~(b) ensuring that, in the interim period prior to the development of freshwater objectives under Freshwater Management Unit processes, applications to establish new, or further intensify existing, dairy farming of cows or intensive winter grazing activities will generally not be granted where:~~
 - ~~(i) the adverse effects, including cumulatively, on the quality of groundwater, or water in lakes, rivers, artificial watercourses, modified watercourses, wetlands, tidal estuaries and salt marshes cannot be avoided or mitigated; or~~
 - ~~(ii) existing water quality is already degraded to the point of being overallocated; or~~
 - ~~(iii) water quality does not meet the Appendix E Water Quality Standards or bed sediments do not meet the Appendix C ANZECC sediment guidelines; and~~
 - ~~(c) ensuring that, after the development of freshwater objectives under Freshwater Management Unit processes, applications to establish new, or further intensify existing, dairy farming of cows or intensive winter grazing activities:~~
 - ~~(i) will generally not be granted where freshwater objectives are not being met; and~~
 - ~~(ii) where freshwater objectives are being met, will generally not be granted unless the proposed~~

~~activity (allowing for any offsetting effects) will maintain the overall quality of groundwater and water in lakes, rivers, artificial watercourses, modified watercourses, wetlands, tidal estuaries and salt marshes.~~

~~(b a) ensuring that for existing farming activities:~~

~~(i) nitrogen, phosphorus, sediment or microbial contaminant discharges are minimised; and~~

~~(ii) reduce adverse effects on water quality where the farming activity occurs within the catchment of a waterbody that requires improvement identified in Schedule X; and~~

~~(iii) demonstrate how (i) and (ii) is being or will be achieved through the implementation of Farm Environment Management Plans prepared in accordance with (c) below and in addition,~~

~~(ba b) ensuring that for the establishment of new, or further intensification of existing, dairy farming of cows or intensive winter grazing activities:~~

~~(i) does not result in an increase in nitrogen, phosphorus, sediment and microbial contaminant discharges; and~~

~~(ii) minimises nitrogen, phosphorus, sediment or microbial contaminant discharges; and~~

~~(iii) reduces nitrogen, phosphorus, sediment or microbial contaminant discharges where the farming activity occurs within the catchment of a waterbody that requires improvement identified in Schedule X; and~~

~~(iv) is avoided in close proximity to Regionally Significant Wetlands and Sensitive Water bodies identified in Appendix A; and~~

~~2.(c) Requiring all farming activities, including existing activities, to:~~

~~(a) be undertaken in accordance with ~~implement~~ a Farm Environmental Management Plan ~~which~~; ~~as set out in Appendix N;~~~~

~~(i) identifies whether the farming activity is occurring, or would occur, in a catchment of a waterbody that requires improvement identified in Schedule X;~~

~~(ii) identifies and responds to the contaminant pathways (and variants) for the relevant Physiographic Zones;~~

~~(iii) sets out how adverse effects on water quality from the discharge of contaminants from farming activities will be minimised or, where the farming activity is occurring in a catchment of a waterbody that requires improvement identified in Schedule X, reduced;~~

- (iv) is certified as meeting all relevant requirements of this plan and regulation prepared under Part 9A of the RMA; and
- (v) is independently audited and reported on;
- (d) ~~actively manage~~ avoid where practicable, otherwise minimise, sediment run-off risk from farming and hill country development activities by identifying critical source areas and implementing actions and maintaining practices including setbacks from waterbodies, sediment traps, riparian planting, limits on areas or duration of exposed soils and the prevention of stock entering the beds of surface waterbodies; and
- (e) ~~manage~~ avoid where practicable, otherwise minimise, collected and diffuse run-off and leaching of nutrients, microbial contaminants and sediment through the identification and management of critical source areas and the contaminant pathways identified for the relevant Physiographic Zones (and variants) within individual properties.
3. When considering a resource consent application for farming activities, consideration should be given to the following matters:
- (a) whether multiple farming activities (such as cultivation, riparian setbacks, and winter grazing) can be addressed in a single resource consent; and
- (b) granting a consent duration of at least 5 years where doing so is consistent with Policy 40.

Minimise means to reduce to the smallest amount reasonably practicable.

RULE 14 - DISCHARGE OF FERTILISER

- (a) The discharge of fertiliser onto or into land in circumstances where contaminants may enter water is a permitted activity provided the following conditions are met:
- (i) other than for incidental discharges of windblown fertiliser dust, there is no direct discharge of fertiliser into a lake, river ~~(excluding ephemeral rivers)~~, artificial watercourse, modified watercourse, or natural wetland or into groundwater;
- (ii) there is no fertiliser discharged when the soil moisture exceeds field capacity; and
- (iii) there is no fertiliser discharged directly into or within 3 metres of the boundary of any significant indigenous biodiversity site identified in a district plan that includes surface water; and
- (iv) where a lake, river ~~(excluding ephemeral rivers)~~, artificial watercourse, modified watercourse or wetland:

- (1) has riparian planting from which stock is excluded, fertiliser may be discharged up to the paddock-side edge of the riparian planting but not onto the riparian planting, except for fertiliser required to establish the planting; or
 - (2) does not have riparian planting from which stock is excluded, fertiliser is not discharged directly into or within 3 metres of the bed or within 3 metres of a wetland.
- (b) The discharge of fertiliser onto or into land in circumstances where the fertiliser may enter water that does not meet the conditions of Rule 14(a) is a non-complying activity.

RULE 20 – FARMING

- ~~(aa) Unless stated otherwise by Rules 20, 25, 70 or any other rule in this Plan:~~
- ~~(i) intensive winter grazing; or~~
 - ~~(ii) cultivation; or~~
 - ~~(iii) the disturbance by livestock including cattle, deer, pigs or sheep;~~
- ~~in, on or over the bed of an ephemeral river is a permitted activity.~~
- (a) The use of land for a farming activity, other than for intensive winter grazing, is a permitted activity provided the following conditions are met:
- (i) the landholding is less than 20 hectares in area; or
 - (ii) where the farming activity includes a dairy platform on the landholding, the following conditions are met:
 - (1) the dairy platform has a maximum of 20 cows; or
 - (2) the dairy platform had a dairy effluent discharge permit on 3 June 2016 that specified a maximum number of cows; and
 - (3) cow numbers have not increased beyond the maximum number specified in the dairy effluent discharge permit that existed on 3 June 2016; and
 - (4) ~~from 1 May 2019~~, a Farm Environmental Management Plan for the landholding is prepared, certified, ~~and~~ implemented and audited in accordance with Appendix N; and
 - ~~(5) the landowner provides to the Southland Regional Council on request:~~
 - ~~(A) a written record of the good management practices, including any newly instigated good management practices in the preceding 12 months, occurring on the landholding; and~~
 - ~~(B) the Farm Environmental Management Plan prepared in accordance with Appendix N;~~

- ~~(65) the land area of the dairy platform is no greater than at 3 June 2016; and~~
- ~~(7) no part of the dairy platform is at an altitude greater than 800 metres above mean sea level; and~~
- ~~(iii) where the farming activity includes intensive winter grazing on the landholding, the following conditions are met:~~
- ~~(1) from 1 May 2019, intensive winter grazing does not occur on more than 15% of the area of the landholding or 100 hectares, whichever is the lesser;~~
- ~~(2) from 1 May 2019, a Farm Environmental Management Plan for the landholding is prepared and implemented in accordance with Appendix N;~~
- ~~(3) from 1 May 2019, all of the following practices are implemented:~~
- ~~(A) if the area to be grazed is located on sloping ground, stock are progressively grazed (break-fed or block-fed) from the top of the slope to the bottom, or a 20 metre 'last-bite' strip is left at the base of the slope;~~
- ~~(B) when the area is being break-fed or block-fed, the stock (excluding sheep and deer) are back fenced to prevent stock entering previously grazed areas;~~
- ~~(C) transportable water trough(s) are provided in or near the area being grazed to prevent stock accessing a lake, river (excluding ephemeral rivers), artificial watercourse, modified watercourse or natural wetland for drinking water;~~
- ~~(D) if supplementary feed (including baleage, straw or hay) is used in the area being grazed it is placed in portable feeders;~~
- ~~(E) if cattle or deer are being grazed the mob size being grazed is no more than 120 cattle or 250 deer; and~~
- ~~(F) critical source areas (including swales) within the area being grazed that accumulate runoff from adjacent flats and slopes are grazed last;~~
- ~~(4) from 1 May 2019, a vegetated strip is maintained in, and stock excluded from, the area between the outer edge of the bed of a lake, river (excluding ephemeral rivers where intensive winter grazing is permitted under Rule 20(aa)), artificial watercourse, modified watercourse or~~

- ~~natural wetland for a distance of at least 5 metres;~~
- ~~(5) from 1 May 2019, intensive winter grazing does not occur within 20 metres of the outer edge of the bed of any Regionally Significant Wetland or Sensitive WaterBodies listed in Appendix A, estuary or the coastal marine area; and~~
- ~~(6) no intensive winter grazing occurs at an altitude greater than 800 metres above mean sea level; and~~
- ~~(iviii) for all other farming activities, from 1 May 2020 a Farm Environmental Management Plan is prepared, certified, and implemented and audited in accordance with Appendix N;~~
- ~~(iv) no part of the dairy platform occurs at an altitude greater than 800 metres above mean sea level.~~
- ~~(b) The use of land for a farming activity that includes intensive winter grazing on the landholding and which meets all conditions of Rule 20(a) other than condition (iii)(3) is a permitted activity, provided that:~~
- ~~(i) from 1 May 2019, a vegetated strip is maintained in, and stock excluded from, the area between the outer edge of the bed of a lake, river (excluding ephemeral rivers where intensive winter grazing is permitted under Rule 20(aa)), artificial watercourse, modified watercourse or natural wetland for a distance of at least 20 metres.~~
- ~~(c) Despite any other rule in this Plan, the use of land for a dairy platform or intensive winter grazing at an altitude greater than 800 metres above mean sea level is a prohibited activity.~~
- (db)** The use of land for a farming activity, other than for intensive winter grazing, that ~~meets all conditions of Rule 20(a) other than (i), (ii), (iii)(1), (iii)(4) or (iii)(5) or~~ does not meet condition (i) of Rule 20(b) any one of conditions (ii)(1)-(5) or (iii) of Rule 20(a) is a restricted discretionary activity, provided the following conditions are met:
- (i) a Farm Environmental Management Plan is prepared, certified, and implemented and audited in accordance with Appendix N; and
- (ii) the application includes the following material, prepared by a suitably qualified person:
- (1) an assessment that shows that the annual amount risk of nitrogen, phosphorus, sediment and microbiological contaminants being discharged from the landholding will be no greater than that the risk of contaminant discharge which was lawfully discharged annually on average for the five years prior to the application being made; and

- (2) for any mitigation proposed, a detailed mitigation plan (taking into account contaminant loss pathways) that identifies the mitigation or actions to be undertaken including any physical works to be completed, their timing, operation and their potential effectiveness.

The Southland Regional Council will restrict its discretion to the following matters:

1. the quality of and compliance with the Farm Environmental Management Plan for the landholding;
 2. whether the assessment undertaken under Rule 20(d)(ii) above takes into account reasonable and appropriate mitigation actions good management practices to minimise the losses of contaminants from the existing farming activity;
 - 2(a). whether the farming activity is being undertaken in a catchment of a waterbody that requires improvement identified in Schedule X, and if so, the mitigation actions to be implemented to reduce adverse effects on water quality
 3. mitigation actions good management practices to be undertaken, including those to minimise the discharge of nitrogen, phosphorus, sediment and microbiological contaminants to water from the use of land, taking into account contaminant loss pathways;
 4. the potential benefits of the activity to the applicant, the community and the environment;
 5. the potential effects of the farming activity on surface and groundwater quality and sources of drinking water; and
 6. monitoring and reporting undertaken to assess the effectiveness of any mitigation implemented.
- (e) The use of land for a farming activity ~~that is not specified as a permitted, restricted discretionary or prohibited activity under which is not a restricted discretionary activity under Rule 20(b)~~ is a discretionary non-complying activity.
- (d) The use of land for a farming activity that does not comply with Rule 20(a)(iv) is a prohibited activity.

APPENDIX N - FARM ENVIRONMENTAL MANAGEMENT PLAN REQUIREMENTS

A Farm Environmental Management Plan must be:

- (1) A Freshwater Farm Plan prepared, implemented and audited in accordance with regulations prepared under Part 9A of the RMA and which apply within the Southland region, plus any additional information or components required by Parts B (3) and (6)(b) as below; or

(2) if Freshwater Farm Plans, under Part 9A of the RMA, are not yet required in the Southland region, a Farm Environmental Management Plan prepared and implemented in accordance with Parts A to C below.

Part A – Farm Environmental Management Plans

A Farm Environmental Management Plan (FEMP) can be based on either of:

1. the material default content set out in Part B below; or
2. industry prepared FEMP templates and guidance material, with Southland-specific supplementary material added where relevant, so that it includes the default material set out in Part B below; or
3. A management plan and nutrient budget prepared in accordance with a condition of resource consent to discharge industrial wastewater onto land that is also used for farming activity, provided it includes the material set out in Part B below in relation to each farm receiving industrial wastewater.

Part B – Farm Environmental Management Plan **Default Content**

- ~~1. A written FEMP that is:

 - ~~(a) prepared and retained, identifying the matters set out in clauses 2 to 5 below;~~
 - ~~(b) reviewed at least once every 12 months by the landholding owner or their agent and the outcome of the review documented; and~~
 - ~~(c) provided to the Southland Regional Council upon request.~~~~
1. The FEMP contains the following landholding details:
 - (a) physical address;
 - (b) description of the landholding ownership and the owner's contact details;
 - (c) legal description(s) of the landholding; and
 - (d) a list of all resource consents held for the landholding and their expiry dates; and
 - (e) the type of farming activities being undertaken on the property, such as "dairy" or "sheep and beef with dairy support".
2. The FEMP contains a map(s) or aerial photograph(s) of the landholding at a scale that clearly shows the locations of:
 - (a) the boundaries;
 - (b) the physiographic zones (and variants where applicable) and soil types (or Topoclimate South soil maps);

- (c) all lakes, rivers, streams (including intermittent rivers), springs, ponds, artificial watercourses, modified watercourses and natural wetlands;
 - (d) all existing and proposed riparian vegetation and fences (or other stock exclusion methods) adjacent to water bodies;
 - (e) places where stock access or cross water bodies (including bridges, culverts and fords); and
 - (f) the location of all known subsurface drainage system(s) and the locations and depths of the drain outlets;
 - (g) all land that may be cultivated and land to be cultivated over the next 12-month period; and
 - ~~(h) all land that may be intensively winter grazed and the land to be planted for winter grazing for the next period 1 May to 30 September; and~~
 - (h) all critical source areas not already identified above; and
 - (i) ~~for~~ land to be cultivated or intensively winter grazed, or break fed on pasture between 1 June and 31 July, and the slope [slope is the average slope over any 20 metre distance] of the land and intended setbacks from any lake, river, artificial watercourse, modified watercourse or natural wetland and any other critical source areas: and
 - ~~(i) critical source areas;~~
 - ~~(ii) intended setbacks from any lake, river (excluding ephemeral rivers), artificial watercourses, modified watercourse or natural wetland; and~~
 - ~~(iii) land with a slope greater than 20 degrees.~~
 - (j) any areas of the land within a catchment of a waterbody that requires improvement identified in Schedule X; and
 - (k) any heritage site recorded in the relevant district plan, on the New Zealand Heritage List/Rārangī Kōrero or on the New Zealand Archaeological Association website; and
 - (l) the presence of taonga species listed in Appendix M within water bodies on the farm (if known); and
 - (m) other significant values and uses (if known) on nearby land and waters.
4. Nutrient Budget/Nutrient Loss Risk Assessment
 For all landholdings over 20ha, the FEMP contains either:
- (a) a nutrient budget (which includes nutrient losses to the environment) calculated using a the latest version of the OVERSEER model in accordance with the latest version of the OVERSEER Best Practice Data Input Standards (or an alternative model approved by the Chief Executive of Southland Regional Council); or

- (b) a nutrient loss risk assessment undertaken using a nutrient loss risk assessment tool approved by the Chief Executive of Southland Regional Council;
 and the nutrient budget or nutrient loss risk assessment is repeated which is repeated:
- (a1) where a material change in land use associated with the farming activity occurs (including a change in crop area, crop rotation length, type of crops grown, stocking rate or stock type) at the end of the year in which the change occurs, and also every three years after the change occurs; and
- (b2) each time the nutrient budget or nutrient loss risk assessment is repeated all the input data used to prepare it shall be reviewed by or on behalf of the landholding owner, for the purposes of ensuring the nutrient budget or nutrient loss risk assessment accurately reflects the farming system. A record of the input data review shall be kept by the landholding owner; and
- (3) the nutrient budget or nutrient loss risk assessment must be prepared by a suitably qualified person that has been approved as such by the Chief Executive of Southland Regional Council.

5. Objectives of Farm Environmental Management Plans

A description of how each of the following objectives will, where relevant, be met:

- (a) Irrigation system designs and installation: To ensure that all new irrigation systems and significant upgrades meet Industry best practice standards;
- (b) Irrigation management: To ensure efficient on-farm water use that meets crop demands, including through upgrading existing systems to meet Industry best practice standards, and ensuring that water and contaminant losses to waterbodies are avoided where practicable or otherwise minimised;
- (c) Nutrient and soil management: To avoid where practicable, or otherwise minimise, nutrient and sediment losses from farming activities to ground and surface water, to maintain or improve water quality;
- (d) Waterways and wetland management: To manage activities within waterways, critical source areas, natural wetlands, and their margins, by avoiding stock damage, and avoiding where practicable, or otherwise minimising, inputs of nutrients, sediment and faecal contaminants to ground and surface water;
- (e) Collected agricultural effluent management: To manage collected agricultural effluent in accordance with best industry practice, to ensure contaminants derived from collected agricultural effluent do not cause adverse effects on water quality.

- (f) Drainage maintenance: To manage drainage maintenance activities to ensure contaminant losses to water bodies and damage to aquatic habitats are avoided where practicable, or otherwise minimised. The FEMP must also identify additional objectives relevant to the farming activities and/or to address environmental risks associated with the land holding and the environment within which it is located.
6. The description for (5) above shall include, for each relevant objective in 5 above:
- (a) an identification of the adverse environmental effects, and risks associated with the farming activities on the property, including consideration of the risks associated with the relevant physiographic zone/s (and variants) and how the identified effects and risks will be managed and mitigated; and
 - (b) where the farm is located within a catchment of a waterbody that requires improvement identified in Schedule X, the mitigations that will achieve a reduction in the discharge of the contaminants where relevant to the farming activity that trigger the requiring improvement status of the catchment; and
 - (c) defined mitigations that clearly set a pathway and timeframe for achievement of the objectives; and
 - (d) the records to be kept for demonstrating mitigations have been actioned and are achieving the objective; and
 - (e) identification of any specific mitigations required by a resource consent held for the property.
7. If any Intensive Winter Grazing is occurring on the landholding, the Farm Environmental Management Plan must also include an intensive winter grazing plan that takes into account and responds to the risk pathways for the relevant physiographic zones (and variants).
- ~~5. Good Management Practices~~
~~The FEMP contains a good management practices section which identifies:~~
- ~~(a) the good management practices implemented since 3 June 2016; and~~
 - ~~(b) the good management practices which will be undertaken over the coming 12-month period. These must include practices for:~~
 - ~~(i) the reduction of sediment and nutrient losses from critical source areas, particularly those associated with overland flow;~~
 - ~~(ii) cultivation (including practices such as contour ploughing, strip cultivation or direct drilling);~~
 - ~~(iii) the use of land for intensive winter grazing (including those practices specified in Rule 20(a)(iii));~~

- ~~(iv) riparian areas (including those from which stock are excluded under Rule 70) and the type of riparian vegetation to be planted, how it will be maintained and how weeds will be controlled;~~
- ~~(v) minimising of the discharge of contaminants to surface water or groundwater, with particular reference to the contaminant pathways identified for the landholding.~~

~~Examples of general good management practices are provided on the Southland Regional Council, DairyNZ and Beef and Lamb New Zealand websites and in the document titled "Industry-agreed Good Management Practices relating to water quality, Version 2, 18 September 2015".~~

Part C – Farm Environmental Management Plan Certification, Auditing, Review and Amendment

1. Farm Environmental Management Plan Certification

- ~~(a) The FEMP must be certified, prior to implementation on the farm, by a Suitably Qualified Person (SQP) that has been approved as such by the Chief Executive of Southland Regional Council.~~
- ~~(b) The purpose of FEMP certification is to confirm that the farming activities on the farm will be carried out in a way that will achieve the Objectives in this Appendix and will comply with any resource consent for the property.~~
- ~~(c) The FEMP must be re-certified, prior to implementation, following any amendments to the FEMP carried out in accordance with Part C(3)(a) of this appendix.~~
- ~~(d) Within one month of a FEMP being certified, a copy of the certified FEMP must be provided to the Southland Regional Council.~~

2. Auditing of the certified Farm Environmental Management Plan

- ~~(a) Within 12 months of the landholding's first FEMP being certified, the landholding owner must arrange for an audit of the farming activities' compliance with the certified FEMP. Thereafter, the frequency of auditing will be in accordance with any conditions of consents held for the landholding, or alternatively, where there are no consent or consent conditions requiring auditing, auditing timeframes associated with the audit grade assigned. Note: Southland Regional Council will provide, on its website, a schedule of the auditing frequency required for FEMP's based on the audit grade assigned to each landholding.~~

(b) The auditor must be a Suitably Qualified Person (SQP) that has been approved as such by the Chief Executive of Southland Regional Council and must not be the same person or from the same organisation that prepared the FEMP.

(c) The auditor must prepare an audit report that:

(i) sets out the auditor's findings;

(ii) stating whether compliance has been achieved and the final compliance grade; and

(iii) any other recommendations from the auditor.

(d) Within one month, of the final audit report being prepared, the audit report must be provided to the Southland Regional Council by the auditor.

3. Review and Amendment of the Farm Environmental Management Plan

The FEMP must be reviewed, by the landholding owner, or their agent, as follows:

(a) when there is a material change to the nature of the farming activities occurring on the landholding, and where that material change is not provided for within the landholding's certified FEMP; and

(b) at least once every 12 months; and

(c) to respond to the outcome of an audit.

The outcome of the review is to be documented and amendments to the FEMP must be made where Part C(3)(a) applies and in circumstances where the annual review identifies that amendments are required.