

**IN THE ENVIRONMENT COURT  
AT CHRISTCHURCH  
I TE KŌTI TAIAO O AOTEAROA  
KI ŌTAUTAHI**

IN THE MATTER of the Resource Management Act 1991

AND appeals under clause 14 of the First  
Schedule of the Act

BETWEEN ARATIATIA LIVESTOCK  
LIMITED

(ENV-2018-CHC-29)

(and all other appellants listed in  
the Schedule attached)

Appellants

AND SOUTHLAND REGIONAL  
COUNCIL

Respondent

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**MINUTE OF THE ENVIRONMENT COURT**

**Case management  
(11 July 2022)**

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**Introduction**

[1] This Minute is released for the purpose of case management and concerns timetable directions discussed in court on Friday 8 July 2022.

**High risk winter grazing on pasture**

[2] All land systems and planning experts with an interest in high risk winter



grazing are directed to conference on the topic. The conferencing is to include Policy 16 together with the proposed Rule 20B, Appendix N and the proposed definition.

[3] The intensity of this activity is variable with supplementary feeding out of stock during winter commonplace. The alternate rule/method proposal are, however, to capture only those practices associated with a high-risk contaminant loss.

[4] We understand the activity is an emerging one in Southland; a response to the adverse publicity around IWG practices. We also understand the witnesses to say that the intensity of the activity is correlated with the likelihood of contaminant loss.

[5] We may have overlooked the relevant evidence, but do not recall planners addressing Policy 16, which – we assume – the proposed rule and methods are to implement. At the conference, consideration will need to be given to whether Policy 16(1)(b) or (ba) is to apply and the implications of this for the policy and to Appendix N.

[6] The conference participants will consider whether the Index of Grazing Pressure,<sup>1</sup> is a tool capable of detecting relative change in intensity of high-risk winter grazing activity for the purpose of managing change to the activity's risk profile.

[7] Any amendments proposed to the pSWLP provisions will be supported by an assessment under s 32AA.

### **Other matters**

[8] At the risk of contradicting myself, the amendments the court suggested to

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<sup>1</sup> Farm systems and planning JWS 30 June 2022.

Policy 16(1)(ba) in the Minute ‘Questions for Dr Monaghan and Mr McCallum-Clark’ dated 5 July 2022 at paragraph [4] may (still) have merit for the reasons stated in the Minute and is to be considered in the expert conference.

### **IWG – Index of Grazing Pressure**

[9] Mr Wilson, Federated Farmers’ planner, proposes its use to support an increase in IWG area (Rule 20A(a)(i)).

[10] With reference to worked examples, can the index demonstrate or inform:

- (a) relative change or absolute change in contaminant losses between different areas;
- (b) the risk of contaminant load increasing with increasing area?

[11] Any support for the use of the Index of Grazing Pressure to support an increase in area, is to be assessed under s 32AA.

[12] As it is his suggestion, Mr Wilson will circulate worked examples **three working days** in advance of the conference convening.

### **General direction – Index of Grazing Pressure**

[13] The Farm Systems and Planning experts are to consider generally whether the Index of Grazing Pressure should be included in Appendix N and identify its applications in the management plan context. If useful, how may it be included in Appendix N?

### **Sense check**

[14] Counsel are to confer and consider whether the capability for implementing a final draft of Appendix N should be ‘sense checked’. If it occurs, the sense check could be undertaken by land systems experts together with farming witnesses who collectively have expertise to cover the field of the different stock types.

[15] If policy differences remain between the parties in relation to high risk winter grazing, this process will not occur before the release of the court's Interim Decision on this topic.

[16] The court would consider court-facilitated conferencing or appointing a special advisor to guide participants on plan processes and the meaning of words and phrases in the RMA context.

[17] When responding the parties will suggest a format for this process (e.g. facilitated conference), identifying participants and advising on any guidance to be given to the participants by the court or by counsel.

### **Scope of relief**

[18] Where parties are agreed on wording, the Regional Council is to establish scope for proposed amendments to the pSWLP.

### **Directions**

[19] While the directions were discussed in court, I said that I would provide parties an opportunity to come back in relation to the same. Any amendments are to be proposed by **Tuesday 12 July 2022**.

[20] The draft timetable follows:

<b>Draft timetable</b>	
Counsel to propose directions re: sense check.	13 July 2022
Third Farm Systems and Planning JWS together with s 32AA to be filed.	21 July 2022

Counsel to confirm party position on final wording of provisions addressed in Third Farm Systems and Planning JWS.	22 July 2022
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<b><u>Amended Timetable</u></b>	
<b><u>* means a timetable direction is given above on a relevant sub-part</u></b>	
SRC has circulated draft submissions regarding scope for relief. Any party disagreeing with SRC's submission will advise SRC no later than <b>3pm Friday 8 June 2022</b> and SRC will note the point of disagreements in its legal submissions.	3pm Friday 8 June 2022
SRC is to file supplementary legal submissions setting out legal principles concerning scope of relief by <b>Tuesday 12 July 2022</b> .	<u>*12 July 2022</u>
Appellants and s274 parties are to circulate their final wording for provisions.	<u>*13 July 2022</u>
Any party disputing scope for relief is to file a memorandum identifying the relevant provision and briefly stating the basis for the challenge.	15 July 2022
Mr McCallum-Clark to file his final reply and s 32AA report.	<u>*20 July 2022</u>
Mr McCallum-Clark to be recalled to give evidence.	25 July 2022
Unless a different order is required, closing submissions are to be given in reverse order to opening submissions. In closing, parties are to address scope for the relief being pursued.	28-29 July and 3-4 August

[21] Leave is reserved for the parties to seek further (or other) directions.

*Jane S.*



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**J E Borthwick**  
**Environment Judge**

Issued: 11 July 2022

### Schedule – List of appellants

ENV-2018-CHC-26	Transpower New Zealand Limited
ENV-2018-CHC-27	Fonterra Co-operative Group Limited
ENV-2018-CHC-29	Aratiatia Livestock Limited
ENV-2018-CHC-30	Wilkins Farming Co Limited
ENV-2018-CHC-31	Gore District Council & others
ENV-2018-CHC-32	DairyNZ Limited
ENV-2018-CHC-33	H W Richardson Group Limited
ENV-2018-CHC-34	Beef + Lamb New Zealand
ENV-2018-CHC-36	Director-General of Conservation
ENV-2018-CHC-37	Southland Fish and Game Council
ENV-2018-CHC-38	Meridian Energy Limited
ENV-2018-CHC-40	Federated Farmers of New Zealand (Southland Province) Inc
ENV-2018-CHC-44	Wilkins Farming Co Limited (previously Campbell's Block Limited)
ENV-2018-CHC-45	Wilkins Farming Co Limited (previously Robert Grant)
ENV-2018-CHC-46	Southwood Export Limited & Others
ENV-2018-CHC-47	Te Rūnanga o Ngāi Tahu, Hokonui Rūnaka, Waihopai Rūnaka, Te Rūnanga o Awarua & Te Rūnanga o Oraka Aparima
ENV-2018-CHC-49	Rayonier New Zealand Limited
ENV-2018-CHC-50	Royal Forest and Bird Protection Society of New Zealand Incorporated