

UNDER the Resource Management Act 1991 ("RMA")

IN THE MATTER of appeals under Clause 14 of the First Schedule to the RMA in relation to the decision on the proposed Southland Water and Land Plan

BETWEEN **FEDERATED FARMERS OF NEW ZEALAND INCORPORATED**
Appellant / s274 Party

AND **SOUTHLAND REGIONAL COUNCIL**
Respondent

MEMORANDUM OF COUNSEL FOR FEDERATED FARMERS CLARIFYING AND CONFIRMING RELIEF SOUGHT

7 June 2022

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MAY IT PLEASE THE COURT

1. As outlined in my 11 April 2022 submissions, Federated Farmers takes issue with the proposed methods in the pSWLP that control:
 - (a) The area of a landholding able to be used for intensive winter grazing (**IWG**);¹
 - (b) Pasture-based grazing in the winter months;²
 - (c) Cultivation;³
 - (d) Feed pads / lots;⁴
 - (e) Sacrifice paddocks;⁵ and
 - (f) Stock access to wetlands.⁶
2. My submissions of 11 April 2022 explained the disputed provisions were somewhat of a moving target⁷ for Federated Farmers and that it was continuing to engage to further develop the drafting.⁸ I indicated that an update would be provided to the Court and parties in advance of the reconvened hearing.
3. An update was then provided by way of memorandum on 25 May 2022.
4. On 1 June 2022, the Judge directed parties to file memoranda by 9am on Tuesday 7 June 2022 “recording any errors” identified in the May version of the Consolidated Plan “together with the parties’ proposed relief.”
5. Each method is address below, for completeness.

1 Rule 20 and Proposed Rule 20A
2 Proposed Rule 20B and Appendix N
3 Rule 25A
4 Rule 35A
5 35A and Proposed Rule 35B
6 Rule 70 / Definition of Wetland
7 Paragraph 1
8 Paragraph 25

Rule 20A: Intensive Winter Grazing

6. Rule 20A(a)(i) should read:

Intensive winter grazing does not occur on more than 15% of the area of the landholding.

7. This is on the basis there is no scope to introduce the base text used in (a)(i).

8. Rule 20A(ii) should be deleted. This is on the basis there is no scope to introduce a slope control on IWG.

9. If either of the above requests are not successful, Rule 20A(aa) is required.

Rule 20B: Pasture based grazing in the winter months

10. The position remains as set out in my memorandum of 25 May 2022.

Rule 25: Cultivation

11. The new rule framework is correctly shown in the Consolidated Plan.

12. A flowchart endeavouring to simply explain the rule framework is **attached**.

Rule 35A: Feed Pads

13. The relief is correctly shown in the Consolidated Plan.

Rule 35B: Sacrifice Paddocks

14. Rule 35B(a)(vii) should read:

A Farm Environment Plan for the landholding is:

- *prepared and certified in accordance with Appendix N;*
- *implemented by the landholder completing the practices, actions and mitigations specified in the FEP in accordance with the timeframes set out in the FEP.*

15. Otherwise, the relief is correctly shown in the Consolidated Plan.

Rule 70: Stock Exclusion from Water Bodies

16. After reflecting on the answers to cross-examination and the scope of appeals to Rule 70, a revised approach is now put forward:

(a) Amend (ca) as follows:

The disturbance of the bed of a lake, river or, modified watercourse or natural wetland by sheep, other than as regulated by Rule 70(a) and 70(b), is a permitted activity, provided the following conditions are met:

- (i) the waterbody is not already fenced to prevent sheep access;*
- (ii) the sheep are not being break fed or intensively winter grazed in the adjacent paddock;*
- (iii) there is no significant de-vegetation leading to exposure of soil of the bed and banks, pugging or alteration to the profile of the bed and banks, other than at fords or stock crossings; and*
- (iv) for natural wetlands, the stocking rate in the adjacent paddock does not exceed 6 su/ha; and*
- (v) A Farm Environmental Management Plan is:
(A) prepared, and certified, and compliance with it is audited, in accordance with Appendix N; and
(B) implemented by the landholder completing the practices, actions, and mitigations specified in the Farm Environmental Management Plan in accordance with the timeframes set out in that Plan.*

- (b) Replace (cb) with:

The disturbance of the bed of a natural wetland by cattle, deer or pigs is a non-complying activity.

- (c) Amend (d) as follows:

Bed disturbance activities that do not comply with Rule 70(c) or 70(ca) are a non-complying activity.

DATED 7 June 2022



B S Carruthers
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