

**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** **WILKINS FARMING COMPANY LIMITED**  
**Appellant**

**AND** **SOUTHLAND REGIONAL COUNCIL**  
**Respondent**

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**MEMORANDUM OF COUNSEL CONFIRMING RELIEF TO BE SOUGHT**

**27 OCTOBER 2021**

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**TO: The Registrar  
Environment Court**

**AND TO: the Parties**

**MAY IT PLEASE THE COURT**

1. This memorandum is filed on behalf of Wilkins Farming Company Limited (**Wilkins**), the appellant in proceedings ENV-2020-CHC-000030 and section 274 party in other proceedings relating to the proposed Southland Water and Land Plan (**pSWLP**).
2. The parties were directed to file tracked change relief by 29 October 2021.
3. This memorandum sets out the relief to be pursued by Wilkins by reference to the Topics and Issues set out in Appendix B to the memorandum of the Southland Regional Council dated 24 September 2021.

**Topic B1**

*Issue 6*

4. As advised to the parties on 23 April 2021, Wilkins seeks to amend Policy 42(2) as follows:

2. *Except for non-consumptive uses, consents replacing an expiring applications to replace a resource consent for an abstraction from an over-allocated waterbody prior to the determination of freshwater objectives, limits and targets through the freshwater management unit process will, generally only be granted at a reduced rate, the reduction being proportional to the amount of over-allocation and previous use, using the method set out in appendix 0:*

*(a) For irrigation use, be required to:*

*(i) Justify the seasonal allocation on the basis it represents efficient allocation and use of the water; and*

*(ii) Demonstrate the minimum instantaneous rate required to operate the irrigation infrastructure.*

*(b) For group or community water supplies, be required to:*

*(i) Identify works proposed to improve the efficiency of water distribution and use; and*

(ii) Demonstrate how water demand will be managed during periods of water shortage.

(c) For other uses, be required to demonstrate that usage does not result in wastage or inefficient use of water.

5. My memorandum circulated to the parties on 9 April 2021 addressed the question of scope and indicated that leave could be sought to file an Amended Notice of Appeal if required to pursue the above changes.

*Issue 17*

6. As advised to the parties on 15 October 2021, Wilkins seeks to amend Appendix L.5 as follows:

(a) Amend the primary groundwater allocation limits in Table 4 of Appendix L.5.1:

(i) Upper Mataura from 10.40 to 33.7;

(ii) Wendonside from 9.56 to 16.7;

(b) Add a note below Table 4 in Appendix L.5.1 to read:

The primary allocation for groundwater takes is equal to 35 percent of the rainfall recharge occurring over the relevant land area where the water is to be taken, except in Upper Mataura and Wendonside where it is equal to 35 percent of the rainfall recharge occurring over the relevant land area and its watershed.

(c) Reinsert the confined part of the Garvie Aquifer to Appendix L.5.2.

**Topic B5**

*Issue 36*

7. As confirmed in the memorandum of counsel filed on 27 October 2021, Wilkins wishes to exercise its right through its s274 notice on the appeals by Robert Grant and Campbell's Block to pursue the request to amend Rule 20(a)(iii)(1) as follows:

(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 area;~~*

*Issue 37*

8. Wilkins is recorded as a s274 party in support of the appeal by Robert Grant seeking to increase the IWG cattle mob size limit in Rule 20(a)(iii)(3)(E) from 120 to 200.
9. This is incorrect. Wilkins did not join this part of Robert Grant's appeal. Wilkins has no interest in Issue 37.

*Issue 38*

10. Provided there is no change to Rule 20(b), Wilkins will not pursue its request to delete Rule 20(a)(iii)(3)(E).
11. However, if any party seeks to delete or amend Rule 20(b), Wilkins will pursue its request to delete Rule 20(a)(iii)(3)(E) as follows:

~~...If cattle or deer are being grazed the mob size being grazed is no more than 200 cattle or 250 deer.~~

*Issue 40*

12. Wilkins is a s274 party in support of the appeal by Aratiatia Livestock Ltd. It does not propose to circulate separate relief to that sought by the appellant. It wishes to reserve the right to do so in the event Aratiatia seek to withdraw this appeal point.

*Issue 44*

13. Wilkins was a s274 party in support of the appeals by The Terrace and Stoney Creek Station. Wilkins agrees the dates in Rule 20(a)(iii) need to be updated given the passage of time and must still be future dates once the pSWLP is made operative. However, it did not oppose the withdrawal of the appeal by The Terrace and has not opposed the withdrawal of this part of the appeal by Stoney Creek Station. Assuming this part of the Stoney Creek Station appeal is confirmed as withdrawn, Wilkins has no continuing interest in Issue 44.

*Issue 49*

14. As confirmed in the memorandum of counsel filed on 27 October 2021, and consistent with Issue 36 above, Wilkins wishes to exercise its right through its s274 notice on the appeals by Robert Grant and Campbell's Block to pursue the request to amend Rule 20(a)(iii)(1) as follows:

*(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 area;*

15. Wilkins questions the rationale for Issue 49 being separate to Issue 36 and suggests they be combined into one.

*Issue 82*

16. Wilkins was a s274 party in support of the appeal by The Terraces. It did not oppose the withdrawal of this appeal point on the basis the relief was also sought by Federated Farmers.

*Issue 88*

17. Wilkins is a s274 party in support of the appeals by Robert Grant and Campbell's Block. It did not oppose the withdrawal of this part of the appeal by Campbell's Block on the basis the relief was also sought by Federated Farmers.

**DATED** 27 October 2021



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B S Carruthers  
Counsel for Wilkins Farming Company Limited