

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KOOTI TAIAO O AOTEAROA
KI OTAUTAHI**

ENV-2018-CHC-000030

IN THE MATTER

of the Resource Management Act 1991

AND

appeals under clause 14 of the First Schedule of the Act

BETWEEN

WILKINS FARMING CO LIMITED

Appellant

AND

SOUTHLAND REGIONAL COUNCIL

Respondent

WILL SAY STATEMENT OF SHARON GAIL DINES

12 NOVEMBER 2021

Counsel instructed:
B S Carruthers
Shortland Chambers
P +64 21 685 809
PO Box 4338
Auckland 1140

MAY IT PLEASE THE COURT:

1. My full names is Sharon Gail Dines
2. I am a Director and Principal Planner at Dines Consulting Limited, based in Auckland.
3. I hold the qualifications of Master of Science (Technology)(Honours) in Earth Sciences obtained in 1995 from the University of Waikato and Post Graduate Diploma in Resource Studies obtained in 2004 from Lincoln University. I am a full member of the New Zealand Planning Institute.
4. I have over 20 years' experience working in planning and resource management in New Zealand. My experience includes assisting clients with the preparation of submissions and further submissions, participating in mediation and witness conferencing and preparing and presenting evidence at Council, Environment Court or Board of Inquiry hearings in the following plan making processes:
 - (a) Tukituki Catchment Proposal in Hawke's Bay;
 - (b) Proposed Southland Regional Policy Statement;
 - (c) Variation 1 to the Canterbury Land and Water Plan in the Selwyn Te Waihora catchment;
 - (d) Proposed Auckland Unitary Plan;
 - (e) Plan Change 1 to the Waikato Regional Plan; and
 - (f) Proposal Regional Plan for Northland.
5. In addition, in 2012, I assisted the Ministry for the Environment with the development of the Guidance materials for the implementation of the National Policy Statement for Freshwater 2011.

Code of Conduct

6. I have read and am familiar with the Code of Conduct for Expert Witnesses in the current Environment Court Practice Note (2014). I have complied with it in the preparation of this evidence and will follow the Code when presenting this evidence. I also confirm that the matters addressed in this statement of evidence are within my area of expertise, except where I rely on the opinion or evidence of other witnesses. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

Scope of Statement

7. The Court's Record of Pre-Hearing Conference Timetable Direction for Topic B issued 22 October 2021 directed witnesses to prepare will-say statements in respect of the Topic B matters remaining unresolved.
8. Wilkins Farming Co Limited (**Wilkins**) has engaged me to provide planning advice, attend mediation and witness conferencing and prepare evidence in respect of the unresolved points of their appeal and section 274 notices on the proposed Southland Water and Land Plan (**pSWLP**).
9. Wilkins position on the unresolved points of their appeal and section 274 notices is set out in the Memorandum of Counsel Confirming Relief to be Sought dated 27 October 2021 from Ms Carruthers. In my evidence I will address:
 - (a) Topic B5 Farming Issues 36, 49 and 40; and
 - (b) Topic B1 Water Takes Issue 6 and 17.

Will Say Statement

Topic B5

Issues 36 and 49: Intensive Winter Grazing

10. Rule 20 of the pSLWP sets out requirements for permitted farming activities. In my opinion, Rule 20 is intended to assist with the implementation of Policies 13 and 16 which in turn is intended to contribute to achieving a number of the objectives of pSWLP (e.g. Objective 3 and Objective 6 in particular).
11. Based on the evidence of Mr Wilkins, (summary of intended evidence **attached**) I will say that in my opinion, the numeric areal limits used in Rule 20(a)(iii)(1) are a blunt instrument to manage the potential environmental effects of intensive winter grazing. The rule also imposes a low limit of 100 hectares of intensive winter grazing for large landowners, such as Wilkins.
12. As illustrated by Mr Wilkins' intended evidence, farming systems are dynamic and complex. In my opinion, more flexibility is necessary in the rules to manage both farming activities and environmental effects to achieve the objectives of the pSWLP. The limit of 100ha regardless of the area of the landholding cannot be justified. Mr Wilkins intended evidence also discusses the impact of reducing the limit to less than 15% of the land area. Based on Mr Wilkins' intended evidence, further reductions in the percentage land area could result in greater adverse environmental effects which would be a perverse outcome.

13. Rule 20(a)(iii)(1) requires amendment as follows:

From 1 May 2019, intensive winter grazing does not occur on more than 15% of the area of the land holding ~~or 100 hectares, whichever is the lesser area;~~

Issue 40: Supplementary Feed

14. Rule 20(a)(iii)(3(D) addresses Supplementary Feed. The requirement of the rule for supplementary feed to be placed in portable feeders is very prescriptive and could impose unnecessary and impractical operational constraints on farmers without improving the environmental outcomes sought by the Objectives and Policies of the pSWLP.
15. Ms Jordan, a witness for Aratiatia Livestock Limited, has proposed alternative relief as follows:

If supplementary feed (including baleage, straw or hay) is used in the area being grazed it is ~~placed in portable feeders~~ fed to the stock in such a way as to prevent the supplementary feed being trampled into the ground, such as placing the supplementary feed in portable feeders or behind an electrified wire.

16. I concur with Ms Jordan that the relief above will better implement the relevant Objectives and Policies by reducing practical constraints on farming activities without compromising the achievement of the outcomes sought.

Topic B1 (Water Takes)

Issue 6: Policy 42

17. In my opinion, Policy 42 is intended to assist with implementing Policies 20-23, which in turn are intended to assist in achieving Objective 9/9A and Objective 11.
18. However, I consider that Policy 42 fails to adequately take account of Objective 7 of the pSWLP which requires existing over-allocation to be phased out *following* the establishment of freshwater objectives, limits and targets in accordance with Freshwater Management Unit processes. The Section 32AA analysis undertaken by Environment Southland confirmed that the Court's proposed amendment to Objective 7 aligns with the Regional Policy Statement, "*is clear in its requirement to avoid any further over-allocation and phase out existing over-allocation under plan provisions developed through*

and [sic] FMU process”¹ and the most appropriate way to achieve the purpose of the RMA.²

19. In addition to this timing issue, I have the following concerns with the Council’s version of Policy 42:
- (a) The change from “may” (notified), to “will generally only” (decision version) to “shall” (mediation version) is unduly prescriptive and removes the necessary flexibility to consider efficiency, need, and value of investment.
 - (b) The directive that the reduction be “proportional to the amount of over allocation” is contrary to the Council’s clear recent statements as to how it intends to address the Mataura River over-allocation issue. There has been no cost benefit analysis of implementing a proportional reduction within each cut-off band for takes from the Mataura River. There has been no assessment of the actual use and/or efficiency of use for each water take from the Mataura River. Given the paucity of assessment undertaken to date, there is no sound justification for a blanket policy of reducing the allowable rate of take at the time of replacement to remedy Council’s mistakes.
 - (c) The focus on a “reduced rate” is also problematic, if this is interpreted as the rate of take. The over-allocation issue arises at the lower flows of the Mataura River. If a replacement consent is granted with a higher flow cut-off than the original consent that is not a “reduced rate”. Over-allocation is unlikely to be addressed by reducing the rate of take.
20. In my opinion, the amendments proposed to Policy 42(2) set out in the relief sought below ensure the requirements of Objective 7 are integrated into the policy and enables the efficient allocation and use of water in the interim period until the FMU process is progressed.

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~~

¹ Appendix A to the 30 October 2020 Memorandum of Counsel for the Southland Regional Council, paragraph 5.13.

² Appendix A to the 30 October 2020 Memorandum of Counsel for the Southland Regional Council, paragraph 5.15.

~~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 Page 3

(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.

Issue 17: Groundwater Zones

21. Appendix L.5 Groundwater Allocation sets out the groundwater allocation limits for confined aquifers and groundwater management zones in Southland. Rule 54 relies on Appendix L.5 to (amongst other things) determine the activity status of groundwater takes as required by policies 22-23. Policies 20-23 implement a number of the objectives of pSWLP (e.g. Objective 9/9A and Objective 11 in particular).
22. Based on the Will Say statement of Dr Sklash, Appendix L.5 requires amendment to:
- (a) Change the primary groundwater allocation limits in Table 4 of Appendix L.5.1 for:
- (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.



Sharon Gail Dines

12 November 2021