

IN THE ENVIRONMENT COURT

CHRISTCHURCH REGISTRY

ENV-2018-CHC-

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under clause 14(1) of Schedule 1 to the Act

AND

IN THE MATTER of the Proposed Southland Water and Land Plan

BETWEEN **BEEF + LAMB NEW ZEALAND**

Appellant

AND **ENVIRONMENT SOUTHLAND REGIONAL COUNCIL**

Respondent

NOTICE OF APPEAL

16 May 2018

Beef + Lamb New Zealand
C/O Lauren Phillips
1/585 Wairakei Road
Christchurch
8545

TO: The Registrar
Environment Court
Christchurch

1. Beef + Lamb New Zealand ("the Appellant") appeals against part of the decisions of Environment Southland Regional Council ("the Council") on the proposed Southland Water and Land Plan ("the Plan").
2. The Appellant made a submission and a further submission on the Plan.
3. The Appellant is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 ("the RMA").
4. Notice of decisions made on the Plan was received on 4 April 2018.
5. The decisions were made by the Council.
6. The parts of the decision that the Appellant is appealing are"

Policy pertaining to stock exclusion from waterways

- a. Part A Policy 18(2.a)

Reduce sedimentation and microbial contamination of water bodies and improve river (excluding ephemeral rivers) and riparian ecosystems and habitats by... requiring the management of sheep in critical source areas and in those catchments where E.coli levels could preclude contact recreation

Rule pertaining to stock exclusion from waterways

- b. Part A Rule 70(e)

Other than as provided for by Rules 70(c) and 70(d), the disturbance of the bed of a lake, river (excluding ephemeral rivers where stock access is permitted under Rule 20(aa)), modified watercourse or natural wetland by cattle, deer or pigs is a permitted activity prior to the dates set out in Table 1 for the land having listed land slopes after which time it is respectively a discretionary activity on that land.

Table 1: Timetable for stock exclusion from water bodies

Farm/stock type	Land slope (as classified by the LRI slope dataset)		
	Plains (0-3°)	Undulating/rolling land (>3-15°)	Steeper land (>15° and over)
Dairy cattle (on dairy platforms) and pigs	All water bodies that are: <ul style="list-style-type: none"> · over 1 metre wide from 1 July 2017 on all slopes · less than 1 metre wide from 1 July 2020 on the plains and undulating/rolling land 		
Dairy support (on either land owned/leased by the dairy farmer or third party land)	All water bodies from 1 July 2022	All water bodies over 1 metre wide from 1 July 2022	All water bodies where break feeding occurs from 1 July 2022
Beef cattle and deer	All water bodies from 1 July 2025	All water bodies over 1 metre wide from 1 July 2030, unless the average stocking rate on the land directly adjacent to the water body is less than 6 stock units per hectare	
	All water bodies where break feeding occurs from 1 July 2022		

7. The reasons for the appeal are as follows:
8. The Appellant filed a submission proposing amendments to Policy 18 and to Rule 70.
9. **Policy 18(2.a)** does not give clarity on its scope and application. There is no guidance given to what measure or standard will be used to specify the levels of E.coli that would preclude contact recreation. The policy also gives no indication on which waterbodies are considered relevant for contact recreation purposes.

10. Rule 70(e)

- a. Requires beef cattle and deer exclusion from waterbodies over 1 meter in width unless the average stocking rate on the land directly adjacent to the waterbody is less than 6 stock units per hectare. The agricultural sector has more than one definition of stock units, however the Plan does not define stock units. Land users do not have a means of determining whether or not their stocking rate adjacent a waterway is permitted.
- b. The stock exclusion rule is silent on sheep while it specifically addresses cattle, pig, and deer access to water bodies. Sheep access to water bodies could reasonably contravene the RMA 1991 sections 13(1) and 15(1). Therefore, failure to specifically and explicitly exempt sheep means that General Rule 4 of the Plan -

Any activity that:

- (i) would otherwise contravene Sections 13(1), 14(2), 14(3) or 15(1) of the RMA; and*
- (ii) is not classified by this Plan as any other class of activity listed in Section 87A of the RMA;*

is a discretionary activity.

would apply and sheep access to waterbodies would require a resource consent for a discretionary activity as soon as the Plan were to become operative.

This outcome is not reflected in Policy 18 and it is assumed that the discretionary activity status for sheep access to waterbodies is an oversight.

11. The Appellant seeks the following relief

a. **Policy 18(2.a)** should state

- i. what measure or standard will be used to specify levels of E.coli would preclude contact recreation; and
- ii. provide guidance on which waterbodies are considered relevant for contact recreation purposes.

b. **Rule 70(e)**

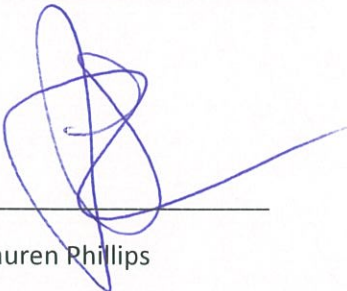
- i. The Plan should define one stock unit in its glossary section or in Rule 70. The Appellant proposes that one stock unit is defined as 'one 55kg breeding ewe, bearing a single lamb, consuming 550kg DM of 'average' quality feed over the year'.
- ii. Rule 70(e) should specifically and explicitly exempt sheep from stock exclusion to water bodies.

12. The Appellant attaches the following documents to this notice:

- a. a copy of Beef + Lamb New Zealand's submission and further submission (Appendices One and Two respectively); and
- b. a copy of the relevant parts of the decision (Appendix Three); and
- c. a list of names and addresses of persons to be served with a copy of this notice (Appendix Four).

Dated at Christchurch this 16th day of May 2018

Beef + Lamb New Zealand



Lauren Phillips

Environment Policy Manager – South Island