

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

AT CHRISTCHURCH ENV – 2018 – CHC –

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under clause 14(1) of the First Schedule of
the Act in relation to Decisions on the Proposed Southland
Water and Land Plan

BETWEEN **Director-General of Conservation**

Appellant

AND **Southland Regional Council**

Respondent

NOTICE OF APPEAL

Dated 17 May 2018

Department of Conservation

Planning Shared Service, Policy and Regulatory Services Group

Department of Conservation

Private Bag 4715

Christchurch 8011

Phone: 03 371 3700

Solicitor: P Williams

To: The Registrar
 Environment Court/ Te Kooti Taiao o Aotearoa
 Justice & Emergency Services Precinct
 20 Lichfield Street
 Christchurch
 Postal address
 P O Box 2069
 Christchurch 8013, New Zealand

1. I, Lou Sanson, Director-General of Conservation (the Director-General) wish to appeal part of the Decisions of Southland Regional Council (the Decision) on the Proposed Southland Water and Land Plan (proposed Regional Plan).
2. I made a submission and further submission on the proposed Regional Plan.¹
3. I am not a trade competitor for the purposes of section 308C or section 308CA of the Resource Management Act 1991 (the RMA).
4. I received notice of the Decision on or about 4 April 2017.
5. The Decision was made by the Southland Regional Council (the Council).
6. The parts of the Decision that I am appealing are:

Restricting land use and development in alpine areas

- 6.1. The Council's decision² to reject my submission on Policy 4 – Alpine and amend Policy 4(3) to read: '*... decision makers generally not granting resource consents for cultivation*'.

Protecting regionally significant wetlands and sensitive waterbodies

- 6.1 The Council's decision³ to reject my submission on Policy 16 – Farming activities that affect water quality and amend Policy 16(1)(a) to only '*discouraging*' the establishment of new dairy farming or intensive

¹Submitter Number 210

²Submission Point 210.43, Appendix A Recommended Decisions on Submissions, ordered by provision, page 28

³Submission Point 210.55, Appendix A Recommended Decisions on Submissions, ordered by provision, page 55

winter grazing activities near regionally significant wetlands and sensitive waterbodies, rather than ‘*strongly discouraging*’ as notified.

Protecting river bird and freshwater fish habitat

- 6.3 The Council’s decisions⁴ rejected my submission points seeking protection of braided river bird habitat and non-migratory galaxiids by:
- a) amending Policy 29 – Provide for the extraction of gravel, to include protection of braided river bird habitat, in particular bare gravel bars; and
 - b) to amend Rule 78 – Weed and sediment removal for drainage maintenance, to protect non-migratory galaxiids through inserting mapping showing non-migratory galaxiid habitat.

Implementing the New Zealand Coastal Policy Statement 2010

- 6.4 The Council’s decision⁵ to reject my further submission and amend Rule 5 – Discharges to surface water bodies, to provide for territorial authorities’ discharges of stormwater and wastewater that may contain raw sewage as a discretionary activity.

Discharge of Agrichemicals

- 6.5 The Council’s decision⁶ to reject my submission and retain Rule 9 – Discharge of agrichemicals onto or into surface water, clause (a)(i).

Avoiding overallocation of groundwater resources

- 6.6 The Council’s decision⁷ to reject my further submission and increase the groundwater allocation zone limits in Appendix L.5, specifically in relation to the Te Anau basin groundwater management zone.

7. The reasons for the appeal are as follows:

Policy 4 – Alpine

- 7.1. The Council’s decisions for the Alpine Physiographic Zone changed the test for cultivation in Policy 4 (3) from the notified wording of (my

⁴Submission Point 210.62, Appendix A Recommended Decisions on Submissions, ordered by provision, page 63; Submission Point 210.95, Appendix A Recommended Decisions on Submissions, ordered by provision, page 131

⁵Submission point 750.9, Appendix A Recommended Decisions on Submissions, ordered by provision, page 78

⁶Submission Point 210.79, Appendix A Recommended Decisions on Submissions, ordered by provision, page 80

⁷Further submission in opposition to Environment Southland submission point 247.29, Appendix A Recommended Decisions on Submissions, ordered by provision, page 138

emphasis) “... *strongly discourage the granting of resource consents for cultivation*” to “... *decision makers generally not granting resource consents for cultivation.*”

- 7.2. The relevant Rule managing cultivation in alpine areas is Rule 25 (d) which now states:

Despite any other rule in this Plan, the use of land for cultivation at an altitude greater than 800 metres above mean sea level is a non-complying activity.

- 7.3. The test of “strongly discourage the granting of resource consents” for cultivation in alpine areas is the appropriate legal test for a non-complying activity.
- 7.4. The alpine zone is the areas greater than 800 metres above mean sea level. These are mountain lands where there is severe risk of heavy rainfall/snowmelt eroding the soil from cultivated land via overland flow and depositing it in streams as stated in Policy 4. This deposited soil can have significant adverse effects on water quality, and stream health and fish habitat.
- 7.5. The Decision therefore is:
- a) contrary to Part 2 by not achieving the sustainable management purpose of the RMA, in particular: section 5(2)(b) as it fails to safeguard the life-supporting capacity of water and ecosystems, and section 6(a) as it fails to have particular regard to the requirement to protect rivers and waterways from inappropriate use and development;
 - b) fails to give effect to the National Policy Statement Freshwater Management 2014 (as amended 2017) (NPSFM) as required by section 67(3) of the RMA, in particular: Objectives A1 and A2, and Policy A1.

Policy 16 – Farming activities that affect water quality

- 7.6. The Council’s decision on Policy 16⁸ states the intention to “... *reflect the ‘holding the line’ approach to water quality that underpins the Plan*”.⁹
- 7.7. The deletion of ‘*strongly*’ from in front of ‘*discouraging*’ in Policy 16(1)(a) for new intensive farming activities in proximity to regionally significant wetlands and sensitive water bodies, does not seem to reflect this stated approach and fails to appropriately protect the values of these significant and sensitive water bodies.
- 7.8. The Decision therefore is:
- a) contrary to Part 2 of the RMA by not achieving the sustainable management purpose in section 5, and failing to recognise and provide for matters of national importance including: section 6(a) natural character of wetlands, lakes, rivers and their margins; 6(c) areas of significant indigenous vegetation and significant habitat for indigenous fauna; section 6(d) public access; and section 6(e) relationship of Maori with water:
 - b) fails to give effect to the NPSFM as required by section 67(3) of the RMA, in particular: Objectives A1 and A2, and Policies A1 and A2.
 - c) In the coastal environment fails to give effect to the New Zealand Coastal Policy Statement 2010 (NZCPS) as required by section 67(3) of the RMA, in particular: Objectives 1 and 7, and Policies 2, 5, 11, 13 and 23.
 - d) fails to give effect to the Southland Regional Policy Statement (SRPS) as required by section 67(3) of the RMA, in particular: Objectives WQUAL 1 and 2 and Policies WQUAL 1, 2, 3 and 4. In the coastal environment, the Decision fails to give effect to

⁸ Submission Point 210.55, Decision Report at [160] – [165]

⁹ Decision Report *supra*, at [162]

Objectives COAST 1 and 3, Policies COAST 1, 2 and 5 and Method COAST 1.

Policy 29 – Provide for the extraction of gravel

- 7.9. The Decision rejected the Director-General’s submission seeking protection for braided river bird habitat, stating that “... *additional environmental constraints would merely duplicate the broad requirements already contained in clauses 1 and 2*”.¹⁰
- 7.10. The braided river systems in the Southland Region provide significant habitat for threatened indigenous river birds, in particular bare gravel bars. The general clauses in Policy 29 (1) and (2) refer to aquatic and riparian habitat which does not necessarily include gravel bars which are not part of river banks.
- 7.11. The Decision therefore is:
- a) contrary to the Part 2 sustainable management purpose of the RMA and fails to recognise and provide for a matter of national importance including: section 6(c) areas of significant habitat for indigenous fauna;
 - b) fails to give effect to the NPSFM as required by section 67(3) of the RMA, in particular: Objective A1.
 - c) fails to give effect to the SRPS as required by section 67(3) of the RMA, in particular: Policy BRL.3.

Rule 78 – Weed and sediment removal for drainage maintenance

- 7.12. The Decision accepted the submission in part by adding in new paragraph (iia) to the Rule which requires that “*the removal of river bed material other than aquatic weeds, plants, mud or silt is avoided as far as practicable ...*”. However, the Decision rejected the submission seeking to insert maps into the Plan which would show non-migratory galaxiid habitat in the Region.
- 7.13. The Southland Region is home to at risk and threatened non-migratory galaxiid species throughout its rivers and waterways. The primary risk to

¹⁰ Appendix A Recommended Decisions on Submissions, ordered by provision, page 64

the ongoing survival of these indigenous species is loss of riparian and instream habitat.

7.14. The Decision therefore is:

- a) contrary to the Part 2 sustainable management purpose of the RMA and fails to recognise and provide for a matter of national importance including: section 6(c) areas of significant habitat for indigenous fauna;
- b) fails to give effect to the NPSFM as required by section 67(3) of the RMA, in particular: Objective A1.
- c) fails to give effect to the SRPS as required by section 67(3) of the RMA, in particular: Policy BRL.3.

Rule 5 – Discharges to surface water bodies

7.15. The Decision accepted an exclusion for discharges to surface water bodies that may contain raw human sewage from a territorial authority reticulated stormwater or wastewater system.

7.16. The Director-General further submitted on this Rule seeking to ensure the specific issues arising from discharges which may enter water in the coastal environment were accounted for. However, the Decision fails to differentiate and address how such discharges should be managed in the coastal environment.¹¹

7.17. The Decision therefore is:

- a) contrary to the Part 2 sustainable management purpose of the RMA, and fails to recognise and provide for matters of national importance including: section 6(a) preserving the natural character of the coastal environment, and section 6(e) the relationship of Maori with coastal water;
- b) fails to give effect in the coastal environment to the NZCPS as required by section 67(3) of the RMA, in particular: Policy 23;

¹¹ Decision Report at Chapter 12

- c) fails to give effect to the SRPS as required by section 67(3) of the RMA, in particular: Policy WQUAL 9.

Rule 9 – Discharge of agrichemicals onto or into surface water

- 7.18. Rule 9 provides for discharge of agrichemicals onto or into water to be a permitted activity provided the conditions in the Rule are met. The Decision¹² retained Rule 9(a)(i) as notified and rejected the Director-General’s submission requesting the deletion of the wording referring to the Manufacturer’s recommendation in clause (a) paragraph (i) “... *and does not exceed the quantity, concentration or rate necessary, as recommended by the manufacturer ...*”.
- 7.19. The Rule refers to the Hazardous Substances and New Organisms Act 1996 (HASNO Act) at 9(a)(ii) and NZS8409:2004 Management of Agrichemicals (NZS8409:2004) at 9(a)(iii). The purpose of the HASNO Act is:¹³
- ... to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances and new organisms.*
- 7.20. The HASNO Act has a comprehensive set of regulations and codes regulated by the Environmental Protection Authority providing for the use (including discharges) of hazardous substances including agrichemicals.
- 7.21. NZS8409:2009 provides a code of practice for the management, transport, storage, use and disposal of agrichemicals. It is also approved under section 28 of the Agricultural Compounds and Veterinary Medicines Act 1997.
- 7.22. The HASNO Act does not have a formal agrichemical label approval process. Rather, both “on label” and “off-label use” of agrichemicals are provided for under NZS8409:2004. NZS8409:2004 does not require all plants/ species an agrichemical to be specified on a manufacturer’s label.

¹² Appendix A Recommended Decisions on Submissions, ordered by provision, page 80, adopting recommendation and reasons in Section 42A Hearing Report at paragraph 7.114

¹³ Section 4 Hazard Substances and New Organisms Act 1996

- 7.23. The Decision on Rule 9 dealing with discharges of agrichemicals onto or into surface water may be contrasted with Rule 10 – Discharge of agrichemicals to land where they may enter water. Rule 10 does not contain the same requirement to comply with the Manufacturer’s recommendations. The Decision on Rules 9 and 10 are inconsistent with each other.
- 7.24. The Decision to require manufacturer’s recommendations in Rule 9 as a pre-condition for use of agrichemicals as a permitted activity is unwarranted given the other regulatory measures which provide for environmental risk and are in place under the HASNO Act and NZS8409:2004.

Appendix L.5 Table L.5

- 7.25. The Decision made changes to Appendix L Table L.4 to increase the groundwater allocation zone allocation limits as a result of the Environment Southland submission. The Director-General further submitted in opposition to these increases in allocation limits.
- 7.26. The Director-General is concerned that the blanket approach to calculating the increased allocation limits does not provide certainty that groundwater will not be overallocated. The Director-General is specifically concerned with using this approach for the Te Anau primary groundwater allocation limit.
- 7.27. The Decision therefore:
- a) fails to give effect to the NPSFM as required by section 67(3) of the RMA, in particular: Objective B2;
 - b) fails to give effect to the Southland Regional Policy Statement (SRPS) as required by section 67(3) of the RMA, in particular: Objectives WQUAN 2 and Policies WQUAN 2 and 5.

8. I seek the following relief:

- 8.1. Amend the provisions of the proposed Regional Plan as set out in the following Table:

Provision	Decision Text (<u>underlined</u> where additions are made and	Amendments Sought (Bold underline where text is
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	<p>strikethrough where text is deleted from the notified text)</p>	<p>inserted and strikethrough <u>and double underline</u> where text is deleted, by the amendments sought through this appeal)</p>
Policy 4 – Alpine (3)	<p>3. prohibiting dairy farming, and intensive winter grazing and <u>decision makers generally not granting</u> strongly discouraging the granting of resource consents for cultivation.</p>	<p>3. prohibiting dairy farming, and intensive winter grazing and decision makers <u>generally should</u> not granting resource consents for cultivation.</p>
Policy 16 – Farming activities that affect water quality (1)(a)	<p>(a) strongly discouraging the establishment of new dairy farming <u>of cows</u> or new intensive winter grazing activities in close proximity to <u>Regionally Significant Wetlands</u> and Ssensitive Wwaterbodies identified in Appendix <u>A Q</u>; and</p>	<p>(a) <u>strongly</u> discouraging the establishment of new dairy farming of cows, or new intensive winter grazing activities <u>or other intensive farming activities</u> in close proximity to Regionally Significant Wetlands and sensitive waterbodies identified in Appendix A; and</p>
Policy 29 – Provide for the extraction of gravel	<p><u>Recognise the value of gravel and provide for the</u> its extraction of gravel to meet the <u>social, economic and cultural</u> needs of the community, in a way that avoids, remedies or mitigates adverse effects <u>on land, groundwater quality, and rivers and their margins</u>; and:</p> <p>1. <u>for river based extractions, requires the restoration of</u> maintains or enhances aquatic and riparian habitat <u>once the gravel extraction activity has ceased</u>; or <u>and ...</u></p>	<p>Recognise the value of gravel and provide for its extraction to meet the social, economic and cultural needs of the community, in a way that avoids, remedies or mitigates adverse effects on land, groundwater quality, rivers and their margins; and:</p> <p>1. for river based extractions, requires the restoration of aquatic, <u>riverine</u> and riparian habitat once the gravel extraction activity has ceased; and...</p>
Rule 5 Discharges to surface water bodies	<p>(ii3) <u>except for discharges from a territorial authority reticulated stormwater or wastewater system,</u> the discharge does not contain any raw sewage.</p>	<p>(3) except for discharges from a territorial authority reticulated stormwater or wastewater system, the discharge does not contain any raw sewage.</p>
Rule 9 Discharge of agrichemicals onto or into	<p>(ai) the discharge is for the purpose of eradicating, modifying or controlling excessive growth of aquatic plants, and does not</p>	<p>(ai) the discharge is for the purpose of eradicating, modifying or controlling excessive growth of aquatic</p>

surface water (a)(i)	exceed the quantity, concentration or rate necessary, as recommended by the manufacturer;	plants, and does not exceed the quantity, concentration or rate necessary, as recommended by the manufacturer;
Rule 78 – Weed and sediment removal for drainage maintenance		<u>(xiv) the modified watercourse is not a habitat of non-migratory galaxiids.</u> [D-G seeks to include mapping of non-migratory galaxiids habitat in the Planning Maps]
Appendix L5 Table L.4 Groundwater Allocation Zone Limit – Te Anau	88.94 118.25	88.94 118.25

8.2. Any other relief to like effect, including consequential amendments that the Court considers fit;

8.3. Costs.

9. I attach the following documents to this notice:

- a) a copy of my submission (Annexure A – Relevant Parts of the Director-General’s Submission and Further Submission).
- b) a copy of the relevant parts of the Decision (Annexure B – Relevant Decisions of Council).
- c) a list of names and addresses of persons to be served with a copy of this notice (Annexure C – Parties served with this notice)



Signature of Aaron Fleming,
Director Operations – Southern South Island Region,
pursuant to delegated authority from the Director-General of Conservation¹⁴

Dated 17 May 2018

Address for service of appellant:

Director General of Conservation

Planning Shared Service
Department of Conservation
Private Bag 4715
Christchurch 8011

Contact persons

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Ph: 027 627 7705
Email: aching@doc.govt.nz

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Ph: 03 474 6902
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How to become party to proceedings

You may be a party to the appeal if,—

- (a) within 15 working days after the period for lodging a notice of appeal ends, you lodge a notice of your wish to be a party to the proceedings (in form 33) with the

¹⁴ A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18 - 32 Manners Street, Wellington 6011

Environment Court and serve copies of your notice on the relevant local authority and the appellant; and

- (b) within 20 working days after the period for lodging a notice of appeal ends, you serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991. You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (*see* form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the relevant application (*or* submission) and (*or or*) the relevant decision (*or* part of the decision). These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Annexure A – Relevant Parts of the Director-General’s Submission and Further Submission

The Director-General’s Submission (29 July 2016)

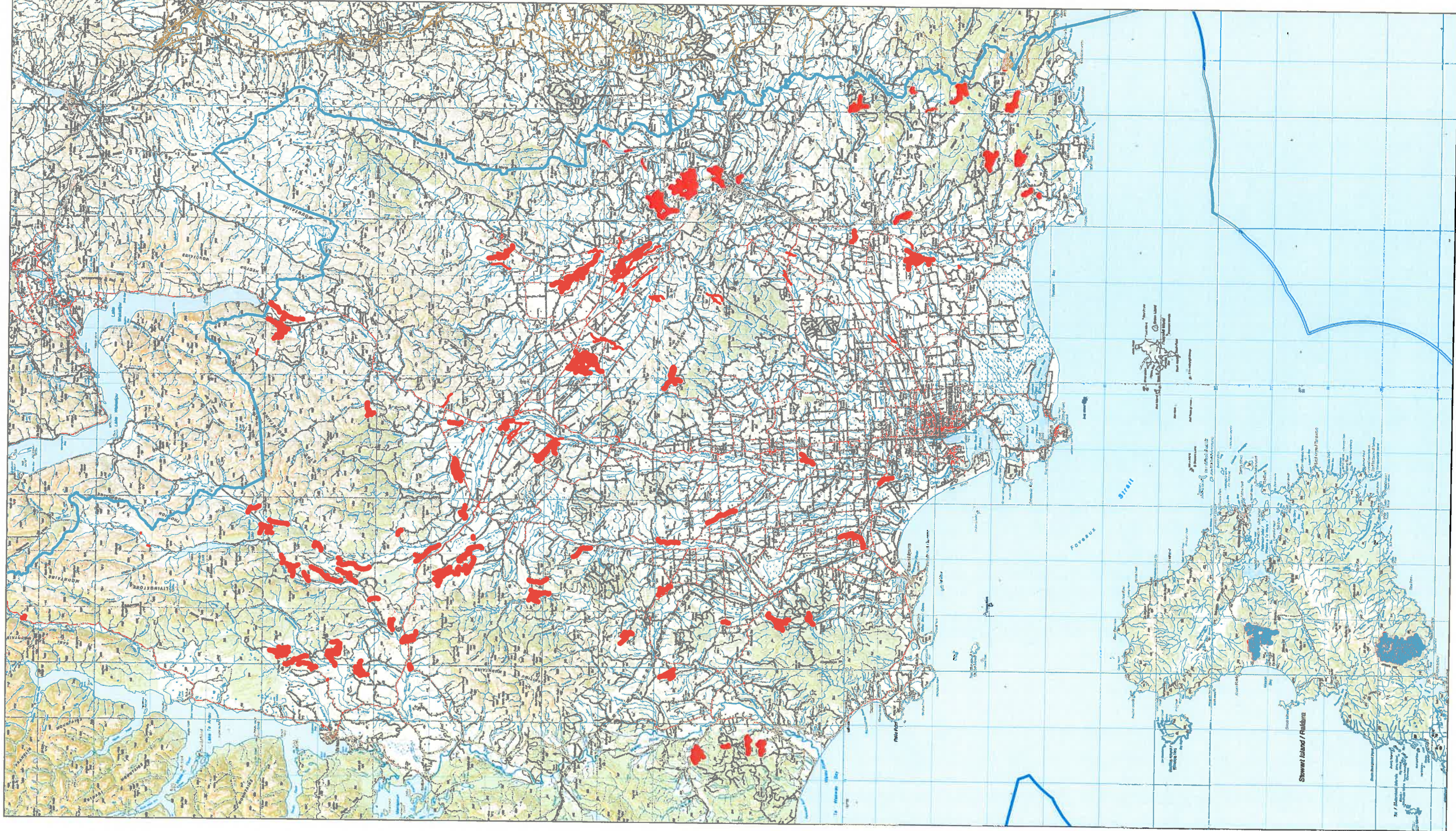
PC REF	PLAN PROVISION	POSITION AND REASON	RELIEF SOUGHT
Page 26	Policy 4 Alpine	<p>Support in part.</p> <p>The Policy is presently contrary to RMA in particular Part 2 and s30 and fails to give effect to NPSFWM in particular A Water Quality. The alpine zone is above 800 metres above mean sea level. The growing seasons are short. The zone can be subject to severe snow accumulation and snow melt and/or intense rainfall events. During these events overland flow from these areas can transport large amounts of nitrogen, phosphorous and suspended sediment to downstream areas. The only attenuation mechanism is dilution, which only decreases concentrations and has no effects on loads. If there is a flood plain, sediment can also be deposited on it. The physical effects of flooding on downstream values can also be significant with accelerated stream bank erosion, overland flow and damage to values.</p> <p>Within this overland flow are contaminants in particular sediment. Large quantities of sediment can have very significant adverse effects on water quality and reduce primary production, alter the structure of food webs and significant adversely affect the diversity and integrity of freshwater and estuarine habitats. Retention of a healthy indigenous vegetation cover is one very</p>	<p>Amend Policy 4 – Alpine to read: <i>In the Alpine physiographic zone, avoid, remedy, or mitigate erosion and adverse effects on water quality from contaminants, by:</i></p> <ol style="list-style-type: none"> 1. <u>Protecting, maintaining and enhancing the indigenous vegetation cover of the soil;</u> 2. <u>Avoiding land development in areas which will cause or accelerate soil erosion;</u> 3. <i>requiring implementation of good management practices to manage erosion and adverse effects on water quality from contaminants transported via overland <u>and lateral flow and their inclusion in management plans;</u></i> 4. <u>strongly discourage the granting of resource consents having particular regard to which have significant adverse effects of contaminants transported via overland flow or lateral flow when assessing resource consent applications and preparing or considering management plans;</u> 5. <i>prohibiting dairy farming, and intensive winter grazing and strongly discouraging the granting of resource consents for cultivation.</i>

		<p>successful method of reducing overland flow and the contaminants in particular sediment in it. The large volumes of low concentration clean water that comes from alpine areas are very important in the dilution of contaminants discharged downstream to protect ecosystem health in lowland areas. The dilution of contaminant concentrations assists in particular in safeguarding the life supporting capacity of Southland's rivers and for the well being of its communities. Increased contaminants in lateral flow</p>	
Page 30	Policy 16 (1)	<p>Support in part. Consistent with NPSFWM and NZCPS as it integrates farm land management and water management. However there are potentially other intensive farming operations which could have significant adverse effects on water quality, especially if animals have access to the beds of rivers or streams or wetlands or artificial drains. Examples could include an intensive outdoor pig farm or a deer farm. Water quality can become degraded and adversely affect its indigenous biodiversity values, for example poor water clarity can cause an excessive algal bloom which can kill off aquatic macrophytes beds.</p>	<p>Amend Policy 16 (1) to read. <i>1. Minimising the environmental effects (including on the quality of water in rivers, coastal lakes, lagoons, tidal estuaries, salt marshes and coastal wetlands, and groundwater) from farming activities by:</i> <i>(a) strongly discouraging the establishment of new dairy farming or new intensive winter grazing activities <u>or other intensive farming activities</u> in close proximity to sensitive waterbodies identified in Appendix Q;</i> <i>(b) strongly discouraging applications to establish new, or further intensify existing dairy farming of cows or intensive winter grazing activities <u>or other intensive farming activities</u> where the effects on the quality of water, including cumulatively, of groundwater, waterbodies, coastal lakes, lagoons, tidal estuaries, salt marshes and coastal wetlands cannot be avoided or fully mitigated or in areas where water quality is already degraded <u>or susceptible to degradation</u> or degraded to the point of being over-allocated.</i></p>
Page 35	Policy 29	<p>Support in part. The policy is contrary to the RMA in particular Part 2, s5, 6(a), (c) and (e) and fails to maintain</p>	<p>Amend Policy 29 to read: <i>Policy 29 – Provide for the extraction of gravel</i></p>

		<p>indigenous biodiversity by protecting the bare gravel bar habitat of braided river birds.</p> <p>Southland's river beds have nationally significant braided river bird values in particular the major habitat of the nationally critical black billed gull and nationally endangered black fronted tern and nationally vulnerable banded dotterel. These species require bare gravel bars for successful roosting and nesting.</p>	<p><i>Provide for the extraction of gravel to meet the needs of the community, in a way that avoids, remedies or mitigates adverse effects on rivers and their margins; and:</i></p> <ol style="list-style-type: none"> <i>1. maintains or enhances aquatic, <u>braided river bird habitat in particular bare gravel bars and riparian habitat</u>; or</i> <i>2. ensures no long-term net loss of habitat in the river channel, <u>bed</u> and floodplain; or</i> <i>3. maintains or enhances flood protection, erosion control or the integrity of physical resources; and</i> <i>4. does not adversely affect the cultural values associated with the river, including mahinga kai and taonga species habitat, mātaimai and taiāpure; and</i> <i>5. does not adversely affect recreational values.</i>
Page 44	Rule 9	<p>Support in part.</p> <p>The Manufacturer's recommendation is not important from a regulatory perspective. It acts as guidance for users.</p> <p>A biosecurity incursion response under the Biosecurity Act may require immediate action to remove a plant such as hornwort.</p>	<p>Amend Rule 9 – Discharge of agrichemicals onto or into surface water to read:</p> <p><i>The discharge of agrichemicals and any associated wetting, antifoaming and anti-drifting agents and marker dyes, into surface water, is a permitted activity provided the following conditions are met:</i></p> <ol style="list-style-type: none"> <i>(a) the discharge is for the purpose of eradicating, modifying or controlling excessive growth of aquatic plants, and does not exceed the quantity, concentration or rate necessary, as recommended by the manufacturer;</i> <i>(b) the agrichemical is approved for aquatic use within New Zealand under the Hazardous Substances and New Organisms Act 1996;</i> <i>(c) all practicable measures are taken to minimise spray drift beyond the target area;</i> <i>(d) the discharge does not give rise to any of the following effects in the receiving water:</i> <ol style="list-style-type: none"> <i>(i) the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials;</i> <i>(ii) any conspicuous change in visual clarity;</i>

			<p>(iii) the rendering of freshwater unsuitable for consumption by farm animals;</p> <p>(iv) any significant adverse effects on aquatic life, other than the target species <u>and other exotic weeds</u>;</p> <p>(e) there is no adverse effect on any water takes permitted by the RMA, this Plan or under a resource consent;</p> <p>(f) there are no recorded historic heritage sites in the surface waterbody or artificial watercourse, at the point of discharge or within 1 km downstream of the discharge point;</p> <p>(g) the discharge does not take place into water within natural state waters, or into waters subject to a water conservation order <u>except where a biosecurity incursion response is required under the Biosecurity Act .</u></p>
<p>Page 100</p>	<p>Rule 78</p>	<p>Support in part. Sediment removal can include gravel which is essential habitat of fish. Mud removal only should be permitted, with a small percentage of gravel able to be removed. It is suggested a maximum of 5% of the sediment removed should be gravel. Sediment removal can have significant adverse effects on threatened indigenous fish. A permitted activity allowing removal of weed and sediment in the habitats of Gollum and alpine galaxiids is inappropriate.</p>	<p>Amend Rule 78 to read; Rule 78 – Weed and sediment<u>mud</u> removal for drainage maintenance (a) The removal of aquatic weeds and plants and sediment<u>mud</u> from any modified watercourse for the purpose of maintaining or restoring drainage outfall and any associated bed disturbance and discharge resulting from the carrying out of the activity, is a permitted activity provided the following conditions are met: (i) the activity shall be undertaken solely to maintain or restore the drainage capacity of a modified watercourse that has previously been modified or maintained for drainage maintenance/restoration purposes at that location; (ii) the activity shall be restricted to the removal of aquatic weeds and plants and/or sediment<u>mud</u> deposits for drainage maintenance/restoration purposes; (iii) any incidental bed disturbance and removal of gravel shall be only to the extent that it is necessary to undertake the activity and shall be kept to the absolute minimum <u>and</u></p>

			<p><u>the gravel removed shall comprise not more than 5% of the total sediment removed</u> ;</p> <p>(iv)-(xiii) Retain as notified.</p> <p><u>(xiv) the modified watercourse is not a habitat of Gollum or alpine galaxias as shown in the Appendix of this submission.</u></p> <p>Retain (b) as notified</p>
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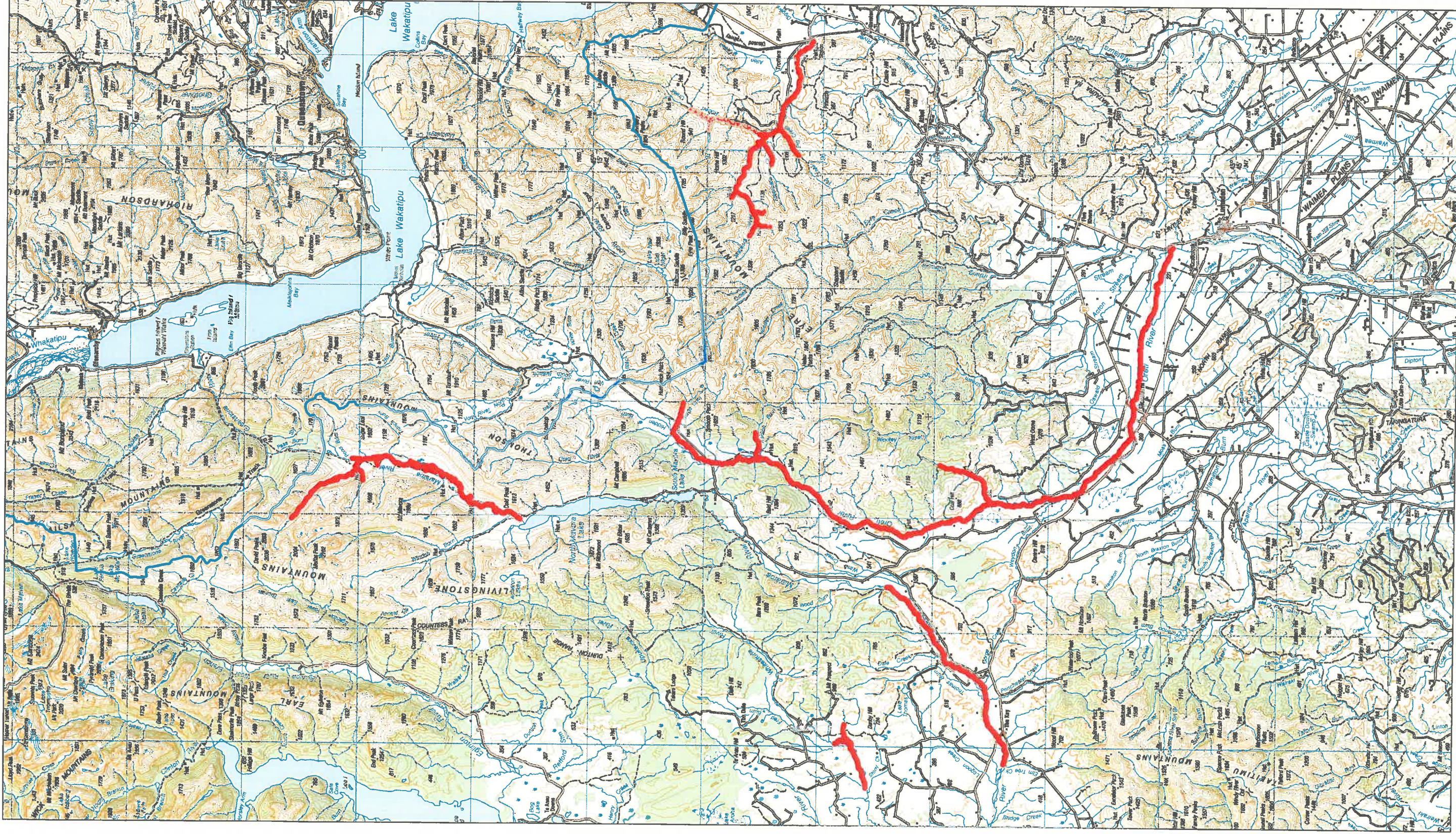
■ Gollum galaxias habitat extent
 Regional Council boundary



NZGD 2000 New Zealand Transverse Mercator
 Not for publication nor navigation
 Crown Copyright Reserved.
 Scale at A4 = 1:661,406
 Produced by: ndunn
 Date Produced: 26/07/16
 DOC, Freshwater Section, Science & Policy



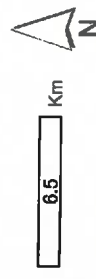
Gollum galaxias habitat extent within the Southland Regional Council boundary



Alpine galaxias habitat extent
Regional Council boundary



NZGD 2000 New Zealand Transverse Mercator
Not for publication nor navigation
Crown Copyright Reserved
Scale at A4 = 1:323,071
Produced by: ndunn
Date Produced: 26/07/16
DOC, Freshwater Section, Science & Policy



Department of Conservation
Te Papa Atarauahi
newzealand.govt.nz

Alpine galaxias habitat extent within the Southland Regional Council boundary

The Director General's Further Submission (19 December 2016)

Plan Reference	Submitter Name	Submission	Support/Oppose	Reasons
Rule 5	Southland District Council	750.9	Oppose	Fails to manage cumulative effects on water quality. All discharges which breach the discretionary activity conditions should be non-complying activities.
Appendix L5 Table L.4	Environment Southland	247.29	Oppose	Fails to consider the effects of groundwater takes with a high connection to rivers. The increased primary allocation fails to consider aquifer heterogeneity such as strata with low storativity and transmissivity and fails to consider the effects of the increased groundwater abstraction on the volume water taken from rivers which discharge into aquifers and spring fed creek flows from aquifers and their ecosystems. Primary allocation should also include permitted activities to manage the cumulative effects of groundwater takes on surface water bodies. In the Tiwai aquifer there is an increased risk of salt water intrusion

Annexure B – The Relevant Decisions of Southland Regional Council

The decision of the Southland Water and Land Plan can be found <http://www.es.govt.nz/document-library/plans-policies-and-strategies/regional-plans/proposed-southland-water-and-land-plan/Pages/default.aspx>. The Hearing Panels Report and Recommendations can be found: <http://www.es.govt.nz/document-library/plans-policies-and-strategies/regional-plans/proposed-southland-water-and-land-plan/background-documents/Documents/Decisions/Report%20and%20Recommendations%20of%20the%20Panel.pdf>

The following table identifies the relevant decisions on the Director-General's submission and further submissions.

Submission ID and Submitter	Provisions	Decision	Reason
210.43 – Director General of Conservation	Policy 4	Reject	Provisions in the pSWLP already adequately address these matters.
210.55 – Director General of Conservation	Policy 16	Reject	We have reviewed Policy 16 of the pSWLP in the light of all of these requests with a view to accepting all that would be most appropriate for achieving the objectives of the pSWLP and would contribute to a coherent body of provisions that would assist the Southland Regional Council to carry out its functions in attaining the purpose of the RMA. We have had regard to the effectiveness and efficiency of the body of provisions and have taken into account the benefits and costs of the environmental, economic, social and cultural effects anticipated from the implementation of the provisions and risks of acting or not acting. As a result, we recommend some of the amendments requested and do not recommend others. Without addressing each in detail, we consider that those we do not recommend would not contribute to making the pSWLP a coherent measure that would assist the Southland Regional Council as intended. In particular, in recognition of the submissions addressing industrial and trade processes we recommend new Policy 16A. The overall amendments we recommend to Policy 16 as notified are contained in the marked-up version of the Plan in Appendix B1 to this Report. In making this finding we have had regard to the recommendations of the Section 42A authors, the submissions received, and the wide range of helpful evidence presented to us at the hearing.
210.62 - Director	Policy 29	Reject	We adopt the recommendations and reasons set out in the section 42A Reports.

General of Conservation			
750.9 – Southland District Council	Rule 5	Reject	We adopt the recommendations and reasons set out in the section 42A Reports.
210.79 - Director General of Conservation	Rule 9	Reject	We adopt the recommendations and reasons set out in the section 42A Reports.
210.95 - Director General of Conservation	Rule 78	Accept in part	In response to this submission point we have recommended the insertion of an additional condition into Rule 78(a) [condition (iia)] which requires that the removal of riverbed material other than aquatic weeds, plants, mud or silt is avoided as far as practicable. We consider that this is a more practical and implementable provision than that sought by these submitters requiring that only a fixed percentage of gravel is removed during drain maintenance activities. We are satisfied that new condition (iia) will achieve the outcome sought by these submitters.
247.29 – Environment Southland	Appendix L5 Table L.4	Accept in part	We recommend that the table names be updated to include a “L” instead of a “Y”. We recommend that the amendments sought to Appendix L be accepted for the reasons set out in the section 42A reports, noting that the deletion of Appendix L.1 is not recommended because the amendment requested would unjustifiably weaken the pSWLP and reduce its effectiveness in achieving its objectives or giving effect to the superior instruments.

Annexure C – Parties Served with this Notice