

**BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH**

ENV-2018-CHC-000050

IN THE MATTER the Resource Management Act 1991 ("**RMA**")

A N D

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

BETWEEN **Royal Forest and Bird Protection Society of New
Zealand Inc.**

Appellant

A N D **Southland Regional Council**

Respondent

**NOTICE OF WISH TO BE PARTY TO PROCEEDINGS UNDER
SECTION 274 OF RMA**

ARATIATIA LIVESTOCK LIMITED

Dated this 15th day of June 2018

**ELLIS GOULD
LAWYERS
AUCKLAND**

**Level 17 Vero Centre
48 Shortland Street, Auckland
Tel: 09 307 2172 / Fax: 09 358 5215
PO Box 1509
DX CP22003
AUCKLAND**

REF: Douglas Allan

**Notice of wish to be party to proceedings under section 274 RMA by Aratiatia
Livestock Limited**

1. Aratiatia Livestock Limited ("**Aratiatia**") wishes to be a party to Notice of Appeal ENV-2018-CHC-000050 dated 22 May 2018 by **Royal Forest and Bird Protection Society of New Zealand Inc.** c/- s.gepp@forestandbird.org.nz and s.maturin@forestandbird.org.nz to the Environment Court ("**the Appeal**") against the decision of the Southland Regional Council on the Proposed Southland Water and Land Plan.
2. Aratiatia is entitled to be a party to the Appeal because:
 - (a) It lodged Notice of Appeal ENV-2018-CHC-000029 dated 16 May 2018 ("**Aratiatia Appeal**") which seeks relief on matters addressed in the Appeal.
 - (b) It owns and farms land on the right (western) bank of the Waiau River, the management of which will be directly affected by the relief sought in the Appeal.
3. Aratiatia is not a trade competitor for the purposes of section 308C or 308CA of the RMA.
4. Aratiatia is interested in all aspects of the Appeal. Aratiatia variously supports and opposes the items of relief identified in **Schedule 1** to this notice.
5. The reasons for Aratiatia's support of the items of relief identified in Schedule 1 are:
 - (a) The relief sought in the Appeal which is supported by Aratiatia is appropriate in terms of section 32 of the RMA and consistent with the purpose, principles and provisions of the RMA, to the extent it is consistent with the relief sought in the Aratiatia Appeal.
 - (b) The grounds set out in the Appeal.
 - (c) The grounds set out in the Aratiatia Appeal.
 - (d) The additional reasons set out in Schedule 1.
6. The reasons for Aratiatia's opposition to the items of relief identified in Schedule 1 are:

- (a) The relief sought in the Appeal which is opposed by Aratiatia is inappropriate in terms of section 32 of the RMA and inconsistent with the purpose, principles and provisions of the RMA.
 - (b) The relief sought in the Appeal which is opposed by Aratiatia will generate unnecessary and inappropriate adverse effects on the environment and in particular on land management practices within the Waiau River catchment.
 - (c) The grounds set out in the Aratiatia Appeal.
 - (d) The additional reasons set out in Schedule 1.
7. Aratiatia agrees to participate in mediation or other alternative dispute resolution of the proceedings.

**Signed for and on behalf of Aratiatia Livestock Limited by
Its solicitors and duly authorised agents Ellis Gould:**



D A Allan

Dated this 15th day of June 2018

Address for Service of Section 274 Party: The offices of Ellis Gould, Solicitors, Level 17, The Vero Centre, 48 Shortland Street, Auckland (PO Box 1509, Auckland, 1140), DX CP22003, Phone: 09 307-2172, Facsimile, 09 358-5215. Attention: D A Allan, Email: dallan@ellisgould.co.nz

Schedule 1 showing relief in Appeal that is opposed and supported

Provision	Aratiatia's position regarding item of relief sought by Appellant	Additional Reasons for Aratiatia's position
Objective 6	Oppose	'Overall' is consistent with the wording in the NPSFM.
Objective 9	Support	Sustainable management of infrastructure is appropriate.
Objective 13	Support in part/oppose in part	The inclusion of recreation and indigenous biodiversity are useful. Given 'avoid' has been found to mean 'prohibit', if 'significant' is removed from the Appellant's proposed 13(b), 'remedied or mitigated' should be added after 'avoided'.
Policies 4-12	Oppose	'Generally' provides guidance to the decision maker while retaining discretion. It is unclear whether the Appellant envisages a threshold above which prohibition would occur, but prohibiting dairy farming and intensive winter grazing and cultivation in the Oxidising, Old Mataura and Peat Wetlands physiographic zones would mean 29% of Southland's current dairy farming land would have to change land use, at massive personal and regional cost, and would mean that over 250,000 ha of land currently available for intensive winter grazing would not be able to be used for that. Further, the proposed amendments to 3 of policies 9-12 are inconsistent with the intent of these clauses, as they are intended to provide direction to decision makers about new/intensified activities, not existing ones.
Policy 13	Oppose	Specifying primary production as an example of use and development of land is appropriate in the Southland Region, as, in contrast to all other regions in New Zealand, agriculture provides for nearly 22% of GDP, nearly double that of most regions.
Policy 16	Oppose	The change to 'avoiding' has the effect of prohibiting, and removes decision maker discretion. The removal of 'generally' also removes decision maker discretion.
Policy 17	Oppose	Avoiding all adverse effects would have the effect of prohibition. Either retain 'significant' or amend policy 17(1) to read, 'Avoid, remedy or mitigate adverse effects...'
Policy 18	Oppose in part/support in part	The definition of ephemeral rivers in the pSWLP could be interpreted to include swales and any depressions in a paddock where water might travel in a rain event. The appellant states that ephemeral rivers have high ecological values. Perhaps some clarity around the definition is required, as there is a risk that as drafted, including ephemeral rivers in Policy 18 would require stock exclusion from extensive areas of Southland. Support date for stock exclusion being 2025. As for Policy 17 on deletion of 'significant'.

Policy 20	Oppose	As for Policy 13. Retain 'remedy or mitigate' as options for managing effects of use and development of surface water. Avoidance alone is effectively prohibition.
Policy 28	Oppose	As for Policy 20.
Policy 32	Support	Including 'maintenance of indigenous biodiversity' would give effect to Objective 14.
Policy 39	Oppose	The application of the permitted baseline should be at the discretion of the decision maker. If this Policy is retained it should be retained as drafted, as the intention was to remove the ability for people to argue that their nutrient losses for dairy were acceptable because they could lose a lot more if they winter grazed their whole farm. This argument has largely been removed as a result of Rule 20, and is not related to water quantity.
Policy 39A	Support	Including the interaction with the coastal marine area is useful for enabling meaningful integrated management.
Rule 14	Oppose	Inclusion of 'ephemeral river', as outlined for Policy 18.
Rule 20	Oppose	Inclusion of 'ephemeral river', as outlined for Policy 18. It is unclear what increased setbacks the Appellant has in mind. The restricted discretionary classification in Rule 20(d) provides a consenting pathway aimed primarily at large scale intensive winter graziers who wish to continue their current activities while reducing losses over time. A non-complying activity status for such activities would have significant adverse implications for the Region.
Rule 25	Oppose in part	Inclusion of 'ephemeral river', as outlined for Policy 18.
Rule 52	Oppose in part	Retain discretionary status for a groundwater take with a low degree of hydraulic connection, as specified in Rule 52(a)(ii).
Rule 52A	Support	A controlled activity status is inappropriate for the Manapouri Power Scheme given the size and effect of the take and the allocation status of the Waiau River.
Rule 70	Oppose in part	Inclusion of 'ephemeral river', as outlined for Policy 18. The definition of 'wetland' in the pSWLP is similarly all encompassing. The use of 'natural wetland' in the current drafting is appropriate.