

under: the Resource Management Act 1991

in the matter of: an appeal under clause 14(1) of Schedule 1 to the Act

and: the Proposed Southland Water and Land Plan

between: **Southland Fish and Game Council**
Appellant

and: **Southland Regional Council**
Respondent

Notice of Dairy Holdings Limited's wish to be party to proceedings

Dated: 7 June 2018

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NOTICE OF DAIRY HOLDINGS LIMITED'S WISH TO BE PARTY TO PROCEEDINGS

Section 274, Resource Management Act 1991

- To** The Registrar
Environment Court
Christchurch
- 1 Dairy Holdings Limited (*DHL*) wishes to be a party to the following proceedings:
 - 1.1 the appeal by Southland Fish and Game Council (the *Appellant*) to the Environment Court against the decisions of the Southland Regional Council on the Proposed Southland Water and Land Plan (the *Decisions*, the *Council* and the *Proposed Plan*).
 - 2 DHL made a submission and further submission on the Proposed Plan.
 - 3 DHL is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991.
 - 4 DHL is interested in all the proceedings.
 - 5 Without limiting the above, DHL is interested in the following particular issues:
 - Objectives 13, 13A, and 13B**
 - 5.1 DHL is supportive of Objectives 13, 13A, and 13B of the decisions version of the Proposed Plan. Although it is neutral to the merging of these Objectives, it is opposed to the reinsertion of Objective 13(c) (or the insertion of a similar clause) of the notified version of the Proposed Plan (the *Notified Plan*).
 - Physiographic Zone Policies**
 - 5.2 The provision for dairy farming and intensive winter grazing in the decisions version of the Proposed Plan without unnecessary restriction from physiographic zone policies.
 - Policy 16**
 - 5.3 The wording of Policy 16 (Farming activities that may affect water) in the decisions version of the Proposed Plan and whether it is adequate and reasonable.

Policy 39

- 5.4 To the extent it still allows consideration of lawfully established activities.

Rule 13

- 5.5 The provision for discharges from sub-surface drainage systems in the decisions version of the Proposed Plan without unnecessary restriction in Rule 13 – Discharge from subsurface drainage systems.

Rule 15

- 5.6 The provision for discharges of stormwater in the decisions version of the Proposed Plan without unnecessary restriction in Rule 15 – Discharge of stormwater.

Rule 20

- 5.7 The provision for intensive winter grazing in the decisions version of the Proposed Plan without unnecessary restriction in Rule 20 - Farming.

Rule 25

- 5.8 The provision for cultivation on sloping ground in the decisions version of the Proposed Plan without unnecessary restriction in Rule 25 – Cultivation on sloping ground.

Appendix N

- 5.9 The provision for workable and practicable Farm Environmental Management Plans (*FEMPs*) in Appendix N – Farm Environment Management Plan Requirements.

Ephemeral and intermittent rivers

- 5.10 The wording of the decisions version of the Proposed Plan generally excluding ephemeral rivers and whether this is adequate and reasonable.

- 6 DHL opposes the relief sought (unless otherwise stated) because:

Objective 13

- 6.1 DHL supports the use and development of land and soils within appropriate limits. Objective 13 is primarily an enabling objective and therefore the overly broad and restrictive wording proposed by the Appellant creates an internal conflict in the Objective and is not appropriate.

Physiographic Zones

- 6.2 DHL owns a number of properties that span a number of physiographic zones (although they are generally not zones that are sensitive from a water quality perspective). It is important that dairy farming and intensive winter grazing are enabled within all of these zones.

- 6.3 The words "*strongly discouraging*" are not appropriate for the physiographic zone policies. It is not clear what is meant by this phrase if there are to be circumstances where the establishment of new dairy farming or intensive winter grazing activities might be allowed.

Farming activities that affect water quality

- 6.4 The words "*strongly discouraging*" are not appropriate for Policy 16. It is not clear what is meant by this phrase if there are to be circumstances where the establishment of new dairy farming or intensive winter grazing activities might be allowed.

Policy 39

- 6.5 DHL opposed Policy 39 in its original submission. On the basis that the wording in the decisions version of the Proposed Plan does not preclude consideration being given to lawfully established activities (which might have relied on permitted rights to establish), DHL has no further issue with the policy – but that is currently unclear.

Discharge from subsurface drainage units

- 6.6 DHL supports discharges from subsurface drainage systems as a permitted activity with appropriate conditions.
- 6.7 The changes to Rule 13 sought by the Appellant make the conditions to such discharges unnecessarily restrictive and impossible to achieve.

Discharge of stormwater

- 6.8 DHL supports discharge of stormwater as a permitted activity with appropriate conditions.
- 6.9 The changes to Rule 15 sought by the Appellant make the conditions to such discharges unnecessarily restrictive and impossible to achieve.

Intensive winter grazing

- 6.10 DHL utilises an efficient wintering system whereby (typically) 5-40ha of forage crops are planted on their dairy farms to allow cows to be brought off wintering blocks earlier in the season. This model means that intensive winter grazing affects not only DHL's wintering blocks, but also potentially its dairy farms.
- 6.11 The changes to Rule 20 and the definition of 'intensive winter grazing' sought by the Appellant impose inappropriate and burdensome conditions for intensive winter grazing as a permitted activity.

Cultivation

- 6.12 DHL has already fenced off the vast majority of waterways on its properties, and these fence-lines are used as guidelines for cultivation. These fences are generally the required 3 metres away from the outer edge of the waterbody. An increase in the required setback distance for cultivation would be difficult to implement, and would unduly restrict DHL's existing cultivation practices. Where waterways are particularly susceptible to cultivation activity this can be managed through the farm environment plan.
- 6.13 The changes sought to Rule 25 by the Appellant inappropriate and burdensome conditions for cultivation on sloping ground as a permitted activity.

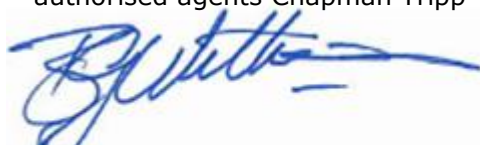
Farm Environmental Management Plan

- 6.14 In order to effectively implement FEMPs, the requirements for these plans (and the content required in them) need to be straight-forward and easy to prepare.
- 6.15 The changes sought to Appendix N by the Appellant are likely to lead to unnecessary costs and compliance burdens.

Ephemeral and intermittent rivers

- 6.16 Ephemeral and intermittent rivers are a common feature in Southland. DHL owns a number of properties which contain such rivers. The Appellant seeks the inclusion of ephemeral and intermittent rivers in a number of policies and rules in the Proposed Plan.
- 6.17 DHL strongly opposes such a change as it would render a large majority of the rules overly burdensome and impossible to achieve.
- 7 DHL agrees to participate in mediation or other alternative dispute resolution of the proceedings.

Signed for and on behalf of Dairy Holdings Limited by its solicitors and authorised agents Chapman Tripp



Ben Williams
Partner
7 June 2018

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Advice

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