

**IN THE MATTER OF:**                      **the Resource Management Act 1991**

**AND**    the hearing of application APP20171302 by **South Dairy Ltd** for resource consents to expand an existing dairy farm by increasing cow numbers and land, to discharge dairy shed and feed pad effluent to land, to retrospectively construct an effluent storage pond and to take and use groundwater.

## **Decision of the Hearing Panel**

### **1 Appointment**

The Southland Regional Council (the Council), also known as Environment Southland, pursuant to Section 34A of the Resource Management Act (RMA) appointed Mr Andrew Henderson (Chair), Cr Neville Cook and Dr Jane Kitson to conduct a hearing into the application lodged by South Dairy Ltd (the Applicant) for resource consents associated with the continued operation and expansion of a dairy farm at 373 O'Shannessy Road, Lochiel.

### **2 Description of the Proposal and Consents Sought**

The nature of the activities for which resource consents have been applied was well described in the application documents, the report prepared by the Council's reporting officers under Section 42A of the RMA (the Section 42A report), and the Applicant's evidence. The application is for resource consents to 'replace'<sup>1</sup> existing resource consents that expired on 9 July 2017, and for consents to increase cow numbers.

The proposal comprises the following key elements:

- Increase cow numbers from 599 to 750 (with all cows wintered off the farm<sup>2</sup>);
- Wintering all 750 cows and other stock off the farm<sup>3</sup>;
- Increase the size of the dairy platform from 165ha to 252ha (an increase of 87ha);
- The discharge of Farm Dairy Effluent (from the pond and feed pad, but excluding silage leachate) to 183ha of land via a high-rate system;
- Increase the discharge area by 143ha;

<sup>1</sup> The RMA does not use the words 'replacement' or 'renewal' in terms of consents that are due to expire and under section 124 of the RMA any such application is referred to as a 'new consent for the same activity'. However, these consent applications are commonly referred to as replacement or renewal applications.

<sup>2</sup> We note that the original application and section 92 response<sup>2</sup> clearly stated that all cows were to be wintered off the property, and we have assessed the Application on this basis.

<sup>3</sup> As confirmed in the Applicant's response to a s92 request, dated 14 August 2017

- Take and use 90,000 litres of groundwater per day; and
- Retrospectively construct a new 5,65m<sup>3</sup> synthetically lined storage pond.

The planning witness for the Council, Ms Emily Allan set out the applicable rules from the relevant regional plans and confirmed that the activities for which resource consents are sought have a discretionary activity status under the Operative Regional Water Plan for Southland, a discretionary activity under the Regional Effluent Land Application Plan, and a discretionary activity status under the proposed Southland Water and Land Plan (2016). We agree with the overall assessment therefore that the proposal requires resource consent for a discretionary activity and adopt it for the purpose of this decision.

### 3 Hearing and Appearances

The hearing was held in the Council Chambers, Environment Southland, in Invercargill on Thursday, 22 February 2018. We undertook a site visit prior to the hearing (Tuesday, 21 February 2018), and we were accompanied by Ms Maciaszek and Ms Stenning for the Council and the Applicants. We record here that no parties proffered any opinion on any matter during the site visit and discussions were limited to matters of fact only.

We pre-read the section 42A report which was pre-circulated in accordance with Section 103B of the RMA, which included a Technical Comment from Mr Ewen Rodway, Council's Environmental Scientist. We also pre-read the Application and supporting information, and the precirculated material from the Applicant and submitter.

We note that the section 42A report recommended that the applications be refused for the following reasons:

*The application is inconsistent, and may be contrary to, Policy direction, including Policy 15(3) and Policy 16(1)(b) of the pSLWP which provide clear direction on the acceptable level of effects on water quality;*

*The effects on water quality of the proposed application have not been avoided or mitigated as directed by policy, and therefore, the proposed application is likely to result in significant effects which have not been provided for in the Regional planning provisions;*

*The uncertainty resulting from the Overseer budgets supplied to model the existing environment, and from failing to supply requested information regarding the construction of the effluents storage pond, and to the environmental risk from this application.*

We note that although the section 42A report refers to matters being contrary to Policies, we are not required to determine whether or not the proposal is contrary to the policies in the same way that we would for a non-complying activity. As a discretionary activity, our assessment requires an overall balancing of the effects of the proposal and the objectives and policies of the relevant planning instruments.

We have not summarised the written and verbal submissions, statements or evidence received during the course of the hearing. Copies of the written material, including material tabled during the hearing, are held by the Council. We took our own notes of the verbal statements and evidence presented and answers to our questions. However, we have referred to, summarised or quoted from relevant elements of some of the submissions, statements, and evidence in the balance of this decision report where necessary.

We record that some of the evidence presented at the hearing by the Applicant refined and updated matters dealt with in the application and AEE, including the material contained in the Applicant's right of reply.

## **4 Procedural and Process Issues**

### **4.1 Directions, Further Information, and Further Evidence**

At the end of the formal part of the hearing we issued Directions which outlined the actions the Applicant and reporting officers were to complete and a timetable for these to be completed.

Specifically, we requested that the Council:

- Confirm the location of any monitoring bores in the vicinity of the new area over which FDE is to be irrigated, and once identified, provide data relating to the quality of water in this location;
- Confirm, if possible based on known data the direction in which the groundwater under the site is understood to flow; and
- Provide any relevant information upon which the model showing the degraded ground water was based.

We also requested conditions that covered the following:

- A consent based upon the Overseer modelling under scenario 3 for 599 cows milked (being a continuation of the previous activity and the new pond); and
- Additional conditions that would relate to the application as sought, being a maximum of 750 cows milked, the storage pond, and irrigation of FDE over the additional area as sought in the application in the event we considered we are able to grant consent for the additional cows.

We received the information requested on 8 March 2018, with annotations and comments on both sets of conditions highlighting areas where the opinion of the reporting officer and the Applicant differed.

During the course of our deliberations, the Council released its decisions on the Water and Land Plan (Wednesday 4 April), and consequently we requested that the Council provide us with a table identifying any changes in wording between the Policies of the proposed Plan and the decisions version of the Plan so that we could be assured we were using the relevant provisions. This was received on 10 April 2018.

### **4.2 Formal Close of Hearing**

Following receipt of the draft conditions and our consideration of the material provided, and our receipt of the updated wording of the provisions of the Water and land Plan, we conferred electronically on 11 April 2018 to consider the material that we had in front of us, and determined that we had sufficient information to make our decision and that we did not need to reconvene the hearing.

We formally closed the hearing on 11 April and, through Ms Stenning, advised the parties of the closing.

### 4.3 Section 113 of the RMA

Section 113(1) requires that a decision on a notified application must be in writing and must state the reasons for the decision, and Section 113(3) of the RMA states:

- A decision prepared under subsection (1) may, -*
- (a) instead of repeating material, cross-refer to all or a part of -*
    - (i) the assessment of environmental effects provided by the applicant concerned;*
    - (ii) any report prepared under section 41 C, 42A, or 92; or*
  - (b) adopt all or a part of the assessment or report, and cross-refer to the material accordingly.*

In the interests of brevity and economy, we intend to make full use of section 113 of the RMA and will not dwell on matters that were not in contention. That is not to say we have glossed over or ignored any matters that were not clearly in contention. We have carefully reviewed the documentation relating to those matters and are satisfied that the outcomes are appropriate. We discuss this later in this decision report.

## 5 Notification, Submissions, and Written Approvals

The application was notified on 30 August 2017, and one submission in opposition was received by the Council.

No written approvals were provided with the application.

## 6 Matters not in Contention

Having considered the application, section 42A report, and evidence presented at the hearing, and the material we received following the formal part of the hearing, we consider that the following matters were not in contention:

- The quantity of water to be abstracted from the Makarewa Groundwater management zone (Regional Water Plan) / Lower Oreti Groundwater management zone (pSWLP);
- Odour effects; and
- The construction of the effluent storage pond. We note in this regard that while the s42A report initially indicating that there was no information to establish that the pond had been appropriately constructed, this information was provided by the Applicant and it was confirmed at the hearing that this matter was no longer an issue.

We have concluded the above matters based upon the advice in the section 42A report that there will be no stream depletion effects, and that there will be no more than minor effects on any neighbouring bore supplies. We also accept the advice that the cumulative allocation from the groundwater zone (including this application) represents some 7.7% (RWP) and 12.3% (pSWLP) of the preliminary allocation. The applicant did not raise any issues in relation to his assessment and we agree with the conclusion in the section 42A report that any adverse effects associated with the water take will be less than minor.

## 7 Principal Issues in Contention

The principal issues that were in contention in the section 42a report relate to:

- The assessment of the existing environment when it comes to the assessment of the expansion of the dairy farm and increase in numbers of cows and the increase in the area for effluent discharge;
- Information on whether the effluent storage pond was constructed appropriately; and;
- The effects of the proposed discharge of farm dairy effluent (FDE) on the quality of the groundwater in the receiving environment.

We address these issues below in the context of the component activities for which consent is sought. In considering these effects, we have read and considered the evidence of Ms Allen for the Council and Mr Crawford for the Applicant, as well as the material presented by Mr Alexander. The evidence was thorough and we are grateful to the parties for the details provided.

## 7.1 Water Quality

### 7.1.1 Existing environment vs proposed consent

Overseer modelling was used to establish the ‘existing environment’ and to compare the proposed application in regard to nutrient loss to water. The information provided in the application and evidence was complex in relation to Overseer, and we paid particular attention to the evidence of Mr Crawford in explaining it to us. As we understand it, Overseer models long-term annual averages, steady state farming and assumes best management practices.

Three Overseer Budgets representing three scenarios for the farm were produced as part of the application to establish the existing environment. The evidence identified that we needed to determine which budget was the most appropriate based on the effects it gave rise to in determining the application.

In the section 42A report, the effects from the intensification of the dairy farm assessment using the first scenario were considered to be more than minor with increases of Nitrogen loss to water of 2kg/ha/year, with a total increased Nitrogen loss of 315 kg/year. There was no predicted change in Phosphorus loss. We therefore discounted this scenario on the basis of the basis of the predicted Nitrogen loss.

The second and third scenario assessments also predicted decreases of Nitrogen losses to water. We note that Ms Allan held concerns over the inputs into the second scenario. Both the applicant (Mr Alexander) and Mr Crawford confirmed at the hearing that inputting errors had occurred in the second scenario, and that the third scenario was therefore the most representative of the existing environment. We accept this advice and agree that the third budget, subject to modifications presented and discussed at the hearing, is the most appropriate budget.

The third scenario when compared with the proposed intensification predicted a decreased loss of Nitrogen to water by 13 kg/ha/year, with a total decreased N loss of 3,439 kg/year and a decreased total of total Phosphorus of 8 kg/year. In summary, the reduced risk in N loss despite the increase in the number of cows milked and the increased area to be added to the farm (i.e. the effluent is to be spread over a larger area). We also note that the budget showed a lower

amount of cropped area, a lower wintering intensification and the mitigating features of the winter feed pad and extended effluent area. In regard to wintering, we note that the original application and section 92 response<sup>4</sup> clearly stated that all cows were to be wintered off the property, and we have assessed the Application on this basis.

Mr Crawford reiterated that the Overseer outputs are not absolute number and that there will be a range of losses over years depending on the environmental conditions. He stated that the scenario representing the 'existing environment' range would be between 32 to 47 N kg/ha/year and the proposed scenario would range from 32 to 47 N kg/ha/year, and in a poor year both scenarios would be in their upper ranges.

As noted above, we accept the advice of Mr Crawford that the third scenario is the most appropriate. We are satisfied, on the basis of his evidence, that the model proposed by this budget is appropriate and will not give rise to significant adverse effects on water quality. We note also that excluding wintering from the property will assist in reducing the quantity of N and P produced over the winter months. We consider it is appropriate that should wintering be a preferred option, then the appropriate mechanism is through a future variation to the consent.

## **7.2 Discharge of effluent to land on soil health and water quality**

### **7.2.1 Construction of effluent storage and effects on water quality**

The section 42a report raised concern that it could not be determined whether the effluent storage pond had been constructed in accordance with the appropriate standards as no evidence had been provided by the applicant. The typical evidence would be a Charter Professional Engineer authorised statement (PS4 statement) as confirmation that the pond has been constructed according to the design plans submitted to the Council and it had been constructed according to Practice Note 21. Without such a statement the Council officer was unable to determine the environmental risk of the effluent pond in this application.

At the hearing Mr Alexander provided the PS4 issued by Hadley Consultants Limited. On receipt of this evidence Ms Allan confirmed that she no longer had no concerns around the construction effluent storage pond, and we accept that advice.

### **7.2.2 Discharge to land via high rate irrigation methods**

The effluent disposal field will be 183 hectares (including the addition of a new area of 143 ha). The 42A report confirmed that this area was considered more than enough to meet the minimum requirement of 4 hectares per 100 cows, which is calculated to achieve a maximum loading of 150 kg of nitrogen/hectare/year from effluent irrigation, and more than the 8 hectares per 100 cows as recommended in the Environment Southland Best Farm Dairy Effluent Practice Guidelines Booklet.

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<sup>4</sup> Section 92 Response, 14 August 2017



We were told that there are three different soils in the disposal area, being the Pukemutu, Northhope and Edendale soil types. Each soil type has distinct characteristics that can affect how applied FDE is managed by the particular soils.

We understand that the predominant risk for the Pukemutu and Northhope soil types is structural compaction and waterlogging, and that the predominant risk for the Edendale soil type is the leaching of nutrients to groundwater. The main risk factor for the eastern section of the property for the discharge of effluent therefore is overland flow and for the western section is for the leaching of nutrients to groundwater.

The Section 42A report identified that mitigation measures would include the use of deferred storage in the pond to ensure that FDE is only discharged when soil moisture conditions are appropriate, the use of low rate and low depth discharges over a large area, and the use of buffer distances to waterways. We note that the Applicant has sufficient storage for 148 days, but applied to discharge effluent via high rate methods (travelling irrigator, slurry tanker and umbilical system) to a low depth (10 mm for travelling irrigator, and 5mm for slurry tanker and umbilical system). Ms Allan considered high rate irrigation methods as inconsistent with good management practice for the discharge of dairy effluent to land and contrary to Policy 8(b) in Te Tangi a Taurira.

Mr Alexander, however, provided evidence at the hearing that a higher rate of application put on quickly at a low depth at appropriate conditions would minimise the risk of run-off and leaching to groundwater. The Applicant proposed the use of a Williams Magnum Rain gun, which was tested by Enviro Sense Limited. The outcome of the test was an average application depth of 2.94 mm, with a maximum depth of 5.38 mm. Based on this evidence, Ms Allan was satisfied that high speed and low depth application would be consistent with good management practices, and we agree. We consider that the disposal method and equipment selected by the Applicant (the Williams Magnum rain gun) is appropriate and overall we are satisfied that the application rate it can achieve will not give rise to adverse effects on the quality of the soil or underlying groundwater.

### **7.2.3 Discharge to land in an area of degraded ground water quality**

The 42A report identified that the expanding dairy operation and FDE discharge is moving onto land over which is identified in the Plan as having degraded groundwater quality. We note that this evidence was based on modelled groundwater data.

We understand that there are no monitored bores on the property, and no water quality data was presented in the 42A report. We considered that this was an information gap and requested data (Minute 1) on the groundwater quality of nearby bores to the new area proposed to be irrigated.

In the subsequent memo Mr Rodway provided information on the median Total Oxidised Nitrogen (TON) values for all sites within 2.5 km of the proposed discharge. A high proportion of the proposed new discharge area is over the high risk Oxidising physiographic zone (60-70%). The median TON concentrations of the adjacent bores in the oxidising physiographic zone ranged from (6.85 -12.9 mg/L) and were notably higher than those of the nearby Gley areas (0.4-4.5 mg/L).

We note that the NZ Drinking Water Standards, which identify that the limit for drinking water, is 11.3 NO<sub>3</sub>-N mg/L, and the values in the neighbouring oxidising physiographic zone is near or in excess of this standard. We note that physiographic zones have been removed from the Plan by the recently released decisions on the proposed Water and Land Plan.

That notwithstanding, we note our finding above that the discharge of FDE will not have significant adverse effects. We are mindful that there is a lack of monitoring data that will enable the Applicant and Council to collect data on water quality underlying the site over time, and therefore consider it appropriate that monitoring bores be established on the site, particularly within the new discharge area.

We understand from the section 42A report that unnamed tributaries of both the Oreti River and the Makarewa River run through the property. No data was presented on the current condition of the water quality in these waterways nor was any concerns expressed by the Consent Officer and applicant once mitigation measures were considered. We also note that Mr Cameron raised concerns regarding potential effects on the Winton Stream. However, we note that the Winton Stream is some 3 or 4 kilometres from the site and is therefore unlikely to be adversely affected by the proposal.

### **7.3 Summary of Effects**

We have carefully considered the evidence of Ms Allan and Mr Crawford, as well as the statements of Mr Alexander, and in doing so have also referred to the definition of ‘effect’ as it appears in section 3 of the Act. We note in particular that section 3 includes in subsection (d) “any cumulative effect” regardless of its scale, intensity or duration, among other things.

We have come to the view that overall the adverse cumulative effects arising from the proposal will not be significant. We also consider that conditions of consent including monitoring of water quality will be appropriate and will assist in better data being available to the Applicant and Council over time as to the state of the ground water quality across the property.

## **8 Statutory Considerations**

### **8.1 Policy statements and plans**

The RMA planning instruments that provide the planning and policy framework for our consideration of the application are as follows:

- Southland Regional Policy Statement;
- Proposed Southland Regional Policy Statement;
- Regional Water Plan;
- Proposed Southland Water and Land Plan;
- Regional Effluent Land Application Plan;
- Resource Management (Measurement and Reporting of Water Takes) Regulations 2010; and
- Te Tangi a Tauira (Iwi Management Plan)



Ms Allan provided an analysis of the relevant provisions of these documents as they relate to the proposed activities. We agree with her assessment that the proposal is consistent with many of the provisions, and do not repeat those assessments.

Relevantly to our assessment, we note that Ms Allan considered that the proposal was potentially contrary with key objectives and policies pertaining to water quality, including Policy 15(3) and 16(1)(b) of the proposed Southland Land and Water Plan, and this informed her view that overall consent should be refused.

We have undertaken our own assessment of these relevant provisions, and summarise our findings in relation to key provisions below. In undertaking this assessment we also note that to find a proposal ‘contrary’ to a provision requires it to be more than inconsistent; rather it requires a determination that the proposal will be diametrically opposed or repugnant to the provisions. Having said that, we also note however that we are not required to determine whether or not the proposal is contrary to the provisions, as this is an application for a discretionary activity, the ‘contrary to’ gateway being specific to non-complying activities. While we may not commented specifically on each provision below, we have considered all of the relevant provisions in the context of this decision, and comment on those that are either directly relevant or where there was some concern as to whether or not they were satisfied.

#### *Regional Water Plan 2010*

Objective 8(b) seeks to enhance groundwater quality within aquifers with degraded water quality. The applicant proposes to discharge the FDE over a greater area, and we note the view in the section 42A report that the land areas was sufficient for the volume proposed to be disposed of. We therefore do not consider the proposal to be inconsistent with this provision.

Objective 9A seeks that discharges into or onto land maintains the structure and quality of the soil resource. We are satisfied that the applicant can appropriately manage the discharges to ensure that FDE is discharged to soil types with the greater propensity to facilitate the uptake of nutrients by plants, and we are satisfied the proposal is consistent with this Objective.

Policy A4, Part 1 requires decision makers to have regard to which it is feasible that any more than minor adverse effects would be avoided. We consider that this policy is at least in part a process policy, directing us to have regard to particular matters, and we have carefully considered the Applicants’ farm management techniques, the greater disposal area and avoidance of soil types that are more free draining, all of which make it at least feasible that the adverse effects can be avoided, and we conclude that the proposal satisfies this Policy.

Policy 7 prefers discharges to land where the effects are less than adverse. We consider that the conditions proposed by the Applicant are appropriate to address the potential effects, and we therefore agree that the proposal is not contrary to this policy.

Policy 25 seeks to avoid, remedy or mitigate the effects of discharges so there is no deterioration in groundwater quality after reasonable mixing. We consider that this Policy is strangely worded, as reasonable mixing is usually used in the context of surface water quality. However, having considered the Applicant’s evidence, we are satisfied that provided the Applicant adheres to the management regime the proposal will be consistent with this policy.

Policy 31A seeks to match the level of management that is required for the discharge of contaminants to land to the level of environmental risk, and Policies 31C and 42 seek to manage the discharge of contaminants to land to avoid, remedy to mitigate adverse effects on a list of parameters and environmental risks. We are satisfied that the application is consistent with these provisions. We consider that the risks posed by the underlying soils have been identified, and the proposed discharge is to be managed such that the more sensitive soils are to be avoided. We also consider that a significant factor in avoiding the risk of additional contamination is the larger area proposed to receive the FDE.

Having considered the relevant provisions, we are satisfied that the proposal is consistent with the provisions of the Regional Water Plan 2010.

*Proposed Water and Land Plan 2016 and 2018 Decisions Version*

The section 42A report included an assessment of the proposal against the provisions of the proposed Water and Land Plan. The provisions of this plan that were of concern to Ms Guise largely mirror the existing provisions in the Regional Water Plan, and our view is the same as expressed above in relation to these provisions. This is, that the management measures proposed are appropriate to manage the potential effects of the discharge, and that the proposal overall is consistent with them.

Following the adjournment of the hearing, the Council released its decisions on submissions to the Plan, and we sought advice from Council officers as to whether the decisions on the submissions had resulted in any substantive changes to the provisions. We have considered these changes and highlight key matters below.

The principal issues raised in the section 42A report related to Policies 15(3) and 16.1, as follows:

- *pSWLP Policy 15(3) Avoiding land use activities that will reduce surface or groundwater quality, unless the adverse effects can be avoided, remedied or mitigated; and*
- *pSWLP Policy 16 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: ...*
  - (b) strongly discouraging applications to establish new, or further intensify existing dairy farming of cows or intensive winter grazing activities 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 to the point of being over-allocated*

We note that both of these policies have been changed as a result of decisions, with Policy 15(3) being removed and replaced with Policy 15A & B which no longer refer to groundwater, as follows:

*Policy 15A – Maintain water quality where standards are met*

*Where existing water quality meets the Appendix E Water Quality Standards or bed sediments meet the Appendix C ANZECC sediment guidelines, maintain water quality including by: ...*

*Policy 15B – Improve water quality where standards are not met*

*Where existing water quality does not meet the Appendix E Water Quality Standards or bed sediments do not meet the Appendix C ANZECC sediment guidelines, improve water quality including by: ...*

In both cases we note that the standards referred to are for surface water and sediment. The decisions also altered Policy 16(a) to the extent that “strongly discouraged” has been replaced with “will generally not be granted”, and “fully mitigated” replaced with “mitigated”. The policy now reads:

Policy 16 – Farming activities that affect water quality

1. *Minimising the adverse environmental effects (including on the quality of water in lakes, rivers, artificial watercourses, modified watercourses, wetlands, tidal estuaries and salt marshes, and groundwater) from farming activities by:*
  - (b) *ensuring that, in the interim period prior to the development of freshwater objectives under Freshwater Management Unit processes, applications to establish new, or further intensify existing, dairy farming of cows or intensive winter grazing activities will generally not be granted where:*
    - (i) *the adverse effects, including cumulatively, on the quality of groundwater, or water in lakes, rivers, artificial watercourses, modified watercourses, wetlands, tidal estuaries and salt marshes cannot be avoided or mitigated; ...*

We have considered the changes made to the Plan provisions as a result of the decisions. As identified above, we have reached the view that the adverse effects of the proposal are not significant, and are satisfied that the adverse effects of the proposal on ground water can be appropriately mitigated by the farming practices adopted by the Applicant and by the discharge of FDE at an appropriate rate over a large area of land. We are therefore satisfied that the proposal is consistent with this policy, and overall is consistent with the amended provisions in the Water and Land Plan (Decisions version).

*Summary*

Overall, we are of the view that the proposal is consistent with the relevant provisions of the statutory documents. An examination of the relevant policies has satisfied us that any lasting effects or uncertainty can be addressed through conditions of consent.

## **8.2 Sections 105 and 107 of the RMA**

We must have regard to sections 105(1) and 107 of the RMA as the application is for a discharge permit, noting that section 107 of the RMA is only relevant to those discharges that are directly to water.

Ms Allan provided an analysis of these two sections as they relate to this application, and concluded that the proposal satisfies the matters set out in section 105 and that none of the

effects described in section 107 will occur as a result of the discharges. We agree with her assessment and we heard no evidence to the contrary.

## **8.4 Part 2 RMA matters**

### *8.4.1 Positive effects*

The positive effects associated with the continued operation of the farming activity relate to direct and indirect economic benefits through employment, goods and services provided to the farm and its employees

### *8.4.2 Part 2 of the RMA*

Part 2 of the RMA sets out the purpose and principles of general application in giving effect to the Act. The RMA has a single purpose, which calls for an overall broad judgement of potentially conflicting considerations, the scale or degree of them in terms of their relative significance or proportion in promoting the sustainable management of natural and physical resources. The enabling elements of section 5 of the RMA are not absolute or necessarily predominant and they must be able to co-exist with the purposes in paragraphs (a) to (c) of section 5.

Section 6 of the RMA identifies matters of national importance that we are required to recognise and provide for. We concur with Ms Allan's view that there are no Matters of National Significance relevant to this application.

Section 7 of the RMA lists 'other matters' that we must have particular regard to and we rely on the advice of Ms Allan that the application is generally consistent' with section 7 of the RMA.

Section 8 of the RMA directs us to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). We have done so to the extent that those principles are consistent with the scheme of the RMA and we are satisfied that no Treaty Principles are breached by the proposal.

We have sought to give effect to Part 2 of the RMA in making our decision on the application in light of the submissions received and the evidence in front of us. In this regard, we find that the proposal will sustain the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations (Section 5(2)(a)). Conditions imposed on the consents will safe-guard the life-supporting capacity of air, water, soil, and ecosystems (Section 5(2)(b)). We are also satisfied that the conditions on the resource consents will ensure that potential adverse effects on neighbouring land and landowners, freshwater resources, and indigenous fauna will be avoided, remedied, or mitigated (Section 5(2)(c)).

In overall terms we are satisfied that granting the consents is consistent with Part 2 of the Act and that the purpose of the RMA will be achieved.

## **9 Duration and Lapsing**

We find that a term of 10 years is, in this case, appropriate for the consents. We note this period was also agreed between the Council officer and the Applicant. A 10 year period is appropriate given the level of investment in the property and nature of the effects. It will also allow the monitoring bores to be established to allow the Applicant and Council to collect good data on water quality throughout the life of the consent.

The activities for which consents are sought are currently occurring and the consents will effectively be exercised immediately upon being granted.

## 10 Conditions

Following the hearing, we requested that the Applicant and the Council collaborate on a set of draft conditions.

We have carefully reviewed these conditions and made changes where necessary to reflect the outcome of this decision. We are satisfied that these conditions are necessary and appropriate to avoid, remedy, or mitigate potential adverse effects identified in the evidence that was presented to us. We are also satisfied that the monitoring and reporting conditions will enable the ongoing effects of the activities to be assessed over time.

## 11 Determination

Pursuant to the powers delegated to us by the Southland Regional Council under section 34A of the RMA, we record that having read the application documents, the reporting officers' Section 42A reports, the submissions, and the evidence presented before, at, and following the formal part of the hearing, and having considered the various requirements of the RMA, we are satisfied that the proposal can be granted in accordance with Section 104B of the Act. In undertaking this assessment, we consider that:

1. The potential adverse effects of the discharge are minor, and can be adequately avoided, remedied or mitigated by the imposition of conditions under Section 108 of the RMA;
2. the effects of the activities, when managed in accordance with those conditions, will be consistent with the relevant statutory instruments and plans;
3. the activities will be consistent with the principles of the RMA; and
4. the activities will satisfy the overall purpose of the RMA.

The resource consents sought by South Dairy Ltd for the activities as listed in Section 2 of this decision report are therefore **granted** subject to the imposition of the conditions set out in Appendix 2 for the reasons listed above and as further discussed in the body of this decision report.



Andrew Henderson  
**Hearing Panel Chair**

Date:

26

April

2018

## **Appendix 1      Appearances**

### **Hearings Commissioners**

Mr Andrew Henderson (Independent Commissioner)

Cr Neville Cook (Environment Southland)

Dr Jane Kitson (Independent Commissioner)

### **Applicant**

Mr Dean and Mrs Suzanne Alexander – South Dairy Ltd

Mr Mark Crawford – Ravensdown Fertiliser

### **Southland Regional Council**

Ms Emily Allan – Consents Officer

### **In Attendance**

Ms Christine Stenning – Hearings Administrator

Ms Aurora Grant - Senior Advisor



## **Appendix 2      Conditions**