

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

**CHRISTCHURCH REGISTRY  
ŌTAUTAHI ROHE**

**UNDER** the Resource Management 1991  
**IN THE MATTER** of appeals under Clause 14 of the First Schedule of the Act

**BETWEEN** **TRANSPower NEW ZEALAND LIMITED**  
(ENV-2018-CHC-26)

**FONterra CO-OPERATIVE GROUP**  
(ENV-2018-CHC-27)

**HORTICULTURE NEW ZEALAND**  
(ENV-2018-CHC-28)

**ARATIATIA LIVESTOCK LIMITED**  
(ENV-2018-CHC-29)

**WILKINS FARMING CO**  
(ENV-2018-CHC-30)

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**STATEMENT OF EVIDENCE OF CLAIRE JORDAN ON  
BEHALF OF ARATIATIA LIVESTOCK LIMITED  
TOPIC B TRANCHE 1**

**17 December 2021**

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Judicial Officer: Judge Borthwick

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**ELLIS GOULD  
LAWYERS  
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**GORE DISTRICT COUNCIL, SOUTHLAND DISTRICT  
COUNCIL & INVERCARGILL DISTRICT COUNCIL**  
(ENV-2018-CHC-31)

**DAIRYNZ LIMITED**  
(ENV-2018-CHC-32)

**H W RICHARDSON GROUP**  
(ENV-2018-CHC-33)

**BEEF + LAMB NEW ZEALAND**  
(ENV-2018-CHC-34 & 35)

**DIRECTOR-GENERAL OF CONSERVATION**  
(ENV-2018-CHC-36)

**SOUTHLAND FISH AND GAME COUNCIL**  
(ENV-2018-CHC-37)

**MERIDIAN ENERGY LIMITED Act 1991**  
(ENV-2018-CHC-38)

**ALLIANCE GROUP LIMITED**  
(ENV-2018-CHC-39)

**FEDERATED FARMERS OF NEW ZEALAND**  
(ENV-2018-CHC-40)

**HERITAGE NEW ZEALAND POUHERE TAONGA**  
(ENV-2018-CHC-41)

**STONEY CREEK STATION LIMITED**  
(ENV-2018-CHC-42)

**THE TERRACES LIMITED**  
(ENV-2018-CHC-43)

**CAMPBELL'S BLOCK LIMITED**  
(ENV-2018-CHC-44)

**ROBERT GRANT**  
(ENV-2018-CHC-45)

**SOUTHWOOD EXPORT LIMITED, SOUTHLAND  
PLANTATION FOREST COMPANY OF NZ,  
SOUTHWOOD EXPORT LIMITED**  
(ENV-2018-CHC-46)

**TE RUNANGA O NGAI TAHU, HOKONUI RUNAKA,  
WAIHOPAI RUNAKA, TE RUNANGA O AWARUA & TE  
RUNANGA O ORAKA APARIMA**  
(ENV-2018-CHC-47)

**PETER CHARTRES**  
(ENV-2018-CHC-48)

**RAYONIER NEW ZEALAND LIMITED**  
(ENV-2018-CHC-49)

**ROYAL FOREST AND BIRD PROTECTION SOCIETY OF  
NEW ZEALAND**  
(ENV-2018-CHC-50)

**Appellants**

**AND**

**SOUTHLAND REGIONAL COUNCIL**

**Respondent**

## One-page summary

- 1 My full name is Claire Louise Marshall Jordan.
- 2 My evidence is not presented as independent expert evidence, as I acknowledge that my connection to Aratiatia Livestock Limited renders me too close to the matter to be considered independent in this instance. However, I do have some expertise in planning and the development of the pSWLP, which has informed the preparation of my evidence.
- 3 Consistent with the Planning JWS dated 10 December 2021, I support the deletion of the permitted activity standards for intensive winter grazing outlined in Rules 20(a)(iii)(3)(D) and (E), which are:  
  

*(D) if supplementary feed (including baleage, straw or hay) is used in the area being grazed it is placed in portable feeders; and*

*(E) if cattle or deer are being grazed the mob size being grazed is no more than 120 cattle or 250 deer; and*
- 4 I consider that deleting these permitted activity standards is a more appropriate, effective and efficient way of achieving the Objectives of the pSWLP than retaining them, on the following basis:
  - (a) The Farm Systems JWS does not identify any scientific evidence to suggest that requiring portable feeders and limiting mob size will have a positive effect on water quality.
  - (b) The Farm Systems JWS suggests that limiting mob size could have an adverse effect on water quality, and that trampling of supplementary feed (i.e. no portable feeders) may improve soil and water quality outcomes.
  - (c) The deletion of Rules 20(a)(iii)(3)(D) and (E) would reduce the operational constraints on farming activities.
- 5 If the permitted activity standards for intensive winter grazing remain in Rule 20(a)(iii) then this could be achieved by deleting Rules 20(a)(3)(D) and (E). Alternatively, if the permitted activity standards for intensive winter grazing are moved to new Rule 20A, as proposed by the Planning

JWS, then the proposed drafting of new Rule 20A would achieve the same outcome.

### Introduction

- 6 My full name is Claire Louise Marshall Jordan.
- 7 I live at 1066 Lillburn-Monowai Road, located on the property owned by Aratiatia Livestock Limited (**Aratiatia**). The majority shareholder of Aratiatia is the Marshall Family Trust. The property is immediately adjacent to both the Waiau River and the Dean Burn, a tributary of the Waiau River. I am a discretionary beneficiary of the Marshall Family Trust and a shareholder of Totara Agricultural Limited, which contracts to Aratiatia. Paul and Juanita Marshall, the directors of Aratiatia, are my parents.
- 8 I am also a committee member of the Waiau Rivercare Group Inc. I have assisted the Waiau Rivercare Group Inc in their part in these proceedings.
- 9 I hold a Bachelor of Science with Honours (first class) from the University of Canterbury in 2010, majoring in chemistry (undergraduate major) and environmental science (honours major). I am currently undertaking a Master of Resource and Environmental Planning Degree through Massey University.
- 10 Prior to starting my Masters, I was a Senior Policy Planner at Environment Southland. I have worked as a Policy Analyst/Planner and an Environmental Scientist for eight years, within Central and Regional Government and as a consultant.
- 11 While employed by Environment Southland I was involved in preparing the proposed Southland Water and Land Plan (**pSWLP**). I was one of the authors of both the Section 32 Report and the Section 42A Report. I was not involved in the Section 42A Reply Report or the hearing process as I was on maternity leave during this time.
- 12 Shortly after my return to Environment Southland in February 2018, I left Environment Southland's employment.
- 13 I have prepared evidence for these proceedings on behalf of Aratiatia and am authorised to give evidence on Aratiatia's behalf.

- 14 My evidence is not presented as independent expert evidence, as I acknowledge that my connection to Aratiatia renders me too close to the matter to be considered independent in this instance. However, I do have some expertise in planning and the development of the pSWLP, which has informed the preparation of my evidence.
- 15 At the Pre-Hearing Conference of 19 October 2021, and in a memorandum responding to the Court's minute of 4 October 2021, counsel for Aratiatia requested that the Court permit me to be involved in planning expert witness conferencing for the pSWLP given that, although I am not providing independent expert planning evidence to the Court, I do have sufficient planning expertise to be involved in conferencing.
- 16 In response, the Court asked whether any parties had an issue with my involvement in expert witness conferencing. In that regard:
- (a) Meridian Energy Ltd opposed my involvement in conferencing on the 'Waiau River provisions', which are largely covered in Topic B6.
  - (b) No parties opposed my involvement in conferencing on Topics B1 and B3-B5. As such, I was involved in Planning Expert Conferencing and signed the Joint Witness Statement on Topics B1, and B3-B5.

### **Scope**

- 17 This evidence addresses the provisions Aratiatia has appealed that fall within Topic B5. Aratiatia is not a primary appellant on provisions within B1, B3 and B4.
- 18 This evidence does not address provisions Aratiatia has appealed that fall within Topics B2 and B6, as I understand these will be addressed at a later date. Nor does this evidence address any Topic B5 provisions against which Aratiatia lodged s274 notices, as I intend to address these provisions through s274 evidence in chief, which is due to be exchanged at a later date.
- 19 In preparing this evidence, I have read and considered the following documents:
- (a) The pSWLP Decisions Version 1 March 2021;

- (b) Section 42A Hearing Report and Reply Report;
- (c) The Council's Decision Report;
- (d) Aratiatia's Appeal;
- (e) The Topic A Interim Decisions;
- (f) Topic B Overview Evidence from the Regional Council, 22 October 2021
- (g) The Joint Witness Statements of the Farms Systems Experts, 22 November and 6 December 2021;
- (h) The Joint Witness Statement of the Water Quality Experts, 24-26 November 2021;
- (i) The Joint Witness Statement of the Planning Experts, 10 December 2021;
- (j) The National Policy Statement for Freshwater Management 2020 (**NPSFM**)
- (k) The National Environmental Standard for Freshwater Management 2020 (**NESFM**)
- (l) The Southland Regional Policy Statement 2017 (**RPS**).

## **Background**

- 20 Aratiatia was a submitter on the notified version of the proposed Southland Water and Land Plan (**Notified Version**). Aratiatia lodged further submissions on the submissions of Meridian Energy Limited and the Southland Fish and Game Council.
- 21 Aratiatia lodged an appeal to the Environment Court on the decisions version of the proposed Water and Land Plan (**Decisions Version**). Of the provisions appealed, only Rules 20(a)(iii)(3)(D) and (E) fall outside Topics B2 and B6.

## Rules 20(a)(iii)(3)(D) and (E)

22 Aratiatia requested that Rule 20(a)(iii)(3)(D) be amended to read:

*"If supplementary feed (including baleage, straw or hay) is used in the area being grazed it is placed in portable feeders fed to the stock in such a way as to prevent the supplementary feed being trampled into the ground, such as placing the supplementary feed in portable feeders or behind an electrified wire."*

23 Aratiatia's appeal seeks that Rule 20(a)(iii)(3)(E) and any cross references throughout the pSWLP, be deleted.

24 Aratiatia's rationale for this relief was that these provisions place significant operational constraints on intensive winter grazing, and it is unclear from the Officers' Reply Report and the Hearing Commissioners' Report what evidence there was to support including these provisions.

25 In the absence of any justification being provided in the Officers' Reply Report or the Hearing Commissioners' Report, the relief sought by Aratiatia in relation to Rule 20(a)(iii)(3)(D) sought to articulate the assumed intention behind the provision and facilitate its achievement in a way that provided more operational flexibility.

26 At paragraph 30 of the Planning JWS the planners recommended the deletion of Rules 20(a)(iii)(3)(D) and (E), on the basis of the Farm Systems Experts JWS of 22 November and 6 December 2021, which provided the following answers to questions posed by the planning witnesses:

***'Question 12 – Is reducing or restricting mob size (i.e., no more than 120 cattle or 250 deer) important for avoiding or mitigating adverse effects of intensive winter grazing (IWG) (assuming the same stocking density)? Could there be perverse outcomes for water quality? If stocking density is a more critical factor to the extent of adverse effects, is there a simple measure for that?***

*Reducing or restricting the mob size is not important in IWG because the stocking density is dictated by the yield of the crop and/or the amount of crop being allocated per animal per day.*



*Perverse outcomes on water quality are possible if mob size is restricted based on the following:*

- more individual mobs under IWG at one time therefore potentially more critical source areas to be managing*
- with more smaller mobs grazing through paddocks will take longer for individual paddocks to be fully grazed, reducing the opportunity to implement catch crops as a mitigation for N, sediment and P losses*
- more mobs will increase the complexity of developing and implementing adverse weather plans, potentially increasing the environmental risk.*

*A simple measure for stocking density could be square metres per animal between the front fence and the back fence. The challenge for this approach is there is no data defining the optimal square metres required to minimise any adverse environmental effects.*

***Question 13 - What (if any) is the science to support mandating portable feeders or other methods of preventing stock from trampling supplementary feed?***

*The farm systems experts are not aware of any science to support this proposed farming practice in terms of benefiting water quality. The farm systems experts assumed that the proposed inclusion of this practice relates to trampling of supplementary feed. This is a farm management issue and not a water quality issue. There are some farming practices developing that support having some feed e.g. hay and straw lying on the ground to protect the soil and provide comfortable bedding areas to reduce animal movement. Potentially the benefits of this practice are less soil compaction and retention of labile nitrogen.'*

- 27 I note that similar questions were also asked of the Water Quality and Science Experts. The Water Quality and Science JWS referred these questions back to the Farm Systems Experts, on the basis that the subject matter was outside their expertise.

- 28 I consider that deleting Rule 20(a)(iii)(3)(D) is an alternative method of addressing the intent of Aratiatia's appeal point on Rule 20(a)(iii)(3)(D).
- 29 The Planning JWS suggests deleting the permitted activity standards for intensive winter grazing contained in Rules 20(a)(iii)(3)(D) and (E) and reformulating the remaining permitted activity standards for intensive winter grazing into new Rule 20A (see Appendix 1). As this addresses the intent of Aratiatia's appeal in relation to Rules 20(a)(iii)(3)(D) and (E) I will assess that form of relief, as opposed to the original relief sought by Aratiatia, throughout the remainder of this evidence.
- 30 In summary, I support deleting the permitted activity standards contained within Rules 20(a)(iii)(3)(D) and (E). I consider this would address the intent of Aratiatia's appeal on these provisions.

#### **Assessment under s32AA of deleting Rules 20(a)(iii)(3)(D) and (E)**

- 31 The two options which I have assessed under s 32 and s 32AA of the Resource Management Act 1991 (**RMA**) are Rule 20(a)(iii)(3) in the Decisions Version, and Rule 20A(a)(vi) as recommended in the Planning JWS.
- 32 This assessment is limited to the presence (in Rule 20(a)(iii)(3)), and the absence (in Rule 20A(a)(vi)) of the requirement to use portable feeders and mob size limits (Rules 20(a)(iii)(3)(D) and (E) respectively). The assessment is limited in this way because this is the scope of Aratiatia's appeal on Rule 20(a)(iii)(3). Other differences between Rule 20(a)(iii)(3) and Rule 20A have not been addressed in this assessment.
- 33 This assessment has been undertaken at a level of detail that I consider corresponds to the scale and significance of the changes, as required by s32AA(1)(c) of the RMA.
- 34 The provisions in full are contained in **Appendix 1**. The relevant portions of the provisions for comparison in this assessment are repeated below.
- 35 The options for comparison are:

#### **Rule 20(a)(iii)(3) in the Decisions Version**

#### **Rule 20 - Farming**

*(a) The use of land for a farming activity is a permitted activity provided the following conditions are met:...*

*...(iii) where the farming activity includes intensive winter grazing on the landholding, the following conditions are met:...*

*...(3) from 1 May 2019, all of the following practices are implemented:*

*(A) if the area to be grazed is located on sloping ground, stock are progressively grazed (break-fed or block-fed) from the top of the slope to the bottom, or a 20 metre 'last-bite' strip is left at the base of the slope;*

*(B) when the area is being break-fed or block-fed, the stock (excluding sheep and deer) are back fenced to prevent stock entering previously grazed areas;*

*(C) transportable water trough(s) are provided in or near the area being grazed to prevent stock accessing a lake, river (excluding ephemeral rivers), artificial watercourse, modified watercourse or natural wetland for drinking water;*

*(D) if supplementary feed (including baleage, straw or hay) is used in the area being grazed it is placed in portable feeders;*

*(E) if cattle or deer are being grazed the mob size being grazed is no more than 120 cattle or 250 deer; and*

*(F) critical source areas (including swales) within the area being grazed that accumulate runoff from adjacent flats and slopes are grazed last;*

### **New Rule 20A(a)(vi) from the Planning JWS**

#### **Rule 20A – Intensive winter grazing**

**(a) Intensive winter grazing is a permitted activity provided the following conditions are met:...**

**...(vi) a Farm Environmental Management Plan for the landholding is prepared and implemented in accordance with Appendix N, that also includes a grazing plan that includes:**

(1) downslope grazing or a 20 metre 'last-bite' strip at the base of the slope; and

(2) back fencing to prevent stock entering previously grazed areas; and

(3) transportable water troughs; and

(vii)...

- 36 I consider that Rule 20A, is a more appropriate, effective and efficient way of achieving the Objectives of the pSWLP than Rule 20(a)(iii)(3) in the Decisions Version, as the signatories to the Farm Systems JWS were unaware of any science suggesting that limiting mob size and requiring portable feeders will have a positive effect on water quality. Indeed, the Farm Systems JWS suggests that Rules 20(a)(iii)(3)(D) and (E) may exacerbate adverse effects on water quality, as detailed at paragraph 19, above.
- 37 Essentially, Rule 20(a)(iii)(3) places additional operational constraints on farming practice compared to Rule 20A(a)(vi) for no known water quality benefit through Rules 20(a)(iii)(3)(D) and (E). Indeed, Rules 20(a)(iii)(3)(D) and (E) may exacerbate adverse effects on water quality.
- 38 It is not anticipated that removing the limits on mob sizes and portable feeds will have a discernible impact on economic growth or employment.
- 39 Some small cost reductions may be felt by those undertaking intensive winter grazing under Rule 20A as they will not be mandated to purchase portable feeders, and there may be a small reduction in the labour requirement for shifting mobs during the winter.
- 40 I consider that the Farm Systems JWS provides information in relation to the subject matter of the provisions that is sufficient and certain enough to render further assessment under s32(2)(c) of the RMA unnecessary.

### **Conclusion**

- 41 I support the deletion of the permitted activity standards for intensive winter grazing outlined in Rules 20(a)(iii)(3)(D) and (E). This could be achieved either by deleting those provisions, or by adopting new Rule 20A as outlined in the Planning JWS.

- 42 I consider that the deletion of these provisions would not reduce the fulfilment of the Objectives of the pSWLP, and may improve them, given the potential for Rules 20(a)(iii)(3)(D) and (E) to exacerbate adverse effects on water quality as outlined in the Farm Systems JWS. Further, the deletion of Rules 20(a)(iii)(3)(D) and (E) would reduce the operational constraints on farming activities.

**DATED** this 17<sup>th</sup> day of December 2021  
**CLAIRE JORDAN**

### **Appendix 1: Tracked changes of relief sought**

Two options are provided below. If the permitted activity standards for intensive winter grazing remain in Rule 20(a)(iii), then delete Rules 20(a)(iii)(3)(D) and (E) as follows:

#### ***Rule 20 – Farming***

*(a) The use of land for a farming activity is a permitted activity provided the following conditions are met:...*

*...(iii) where the farming activity includes intensive winter grazing on the landholding, the following conditions are met:*

*(1) from 1 May 2019, intensive winter grazing does not occur on more than 15% of the area of the landholding or 100 hectares, whichever is the lesser; and*

*(2) from 1 May 2019, a Farm Environmental Management Plan for the landholding is prepared and implemented in accordance with Appendix N; and*

*(3) from 1 May 2019, all of the following practices are implemented:*

*(A) if the area to be grazed is located on sloping ground, stock are progressively grazed (break-fed or block-fed) from the top of the slope to the bottom, or a 20 metre 'last-bite' strip is left at the base of the slope; and*

*(B) when the area is being break-fed or block-fed, the stock (excluding sheep and deer) are back fenced to prevent stock entering previously grazed areas; and*

*(C) transportable water trough(s) are provided in or near the area being grazed to prevent stock accessing a lake, river (excluding ephemeral rivers), artificial watercourse, modified watercourse or natural wetland for drinking water; and*

~~(D) if supplementary feed (including baleage, straw or hay) is used in the area being grazed it is placed in portable feeders; and~~

~~(E) if cattle or deer are being grazed the mob size being grazed is no more than 120 cattle or 250 deer; and~~

~~(FD) critical source areas (including swales) within the area being grazed that accumulate runoff from adjacent flats and slopes are grazed last; and~~

(4) from 1 May 2019, a vegetated strip is maintained in, and stock excluded from, the area between the outer edge of the bed of any lake, river (excluding ephemeral rivers where intensive winter grazing is permitted under Rule 20(aa)), artificial watercourse, modified watercourse or natural wetland for a distance of at least 5 metres; and

(5) from 1 May 2019, intensive winter grazing does not occur within 20 metres of the outer edge of the bed of any Regionally Significant Wetland or Sensitive Waterbodies listed in Appendix A, estuary or the coastal marine area; and

(6) no intensive winter grazing occurs at an altitude greater than 800 metres above mean sea level; and...

Alternatively, if the permitted activity standards for intensive winter grazing are instead included in new Rule 20A (as proposed in the Planning JWS), then delete Rule 20(a)(iii) and replace with Rule 20A(a) as follows:

### **Rule 20 – Farming**

(a) The use of land for a farming activity is a permitted activity provided the following conditions are met:...

~~...(iii) where the farming activity includes intensive winter grazing on the landholding, the following conditions are met:~~

~~(1) from 1 May 2019, intensive winter grazing does not occur on more than 15% of the area of the landholding or 100 hectares, whichever is the lesser; and~~

~~(2) from 1 May 2019, a Farm Environmental Management Plan for the landholding is prepared and implemented in accordance with Appendix N; and~~

~~(3) from 1 May 2019, all of the following practices are implemented:~~

~~(A) if the area to be grazed is located on sloping ground, stock are progressively grazed (break-fed or block-fed) from the top of the slope to the bottom, or a 20 metre 'last-bite' strip is left at the base of the slope; and~~

~~(B) when the area is being break-fed or block-fed, the stock (excluding sheep and deer) are back fenced to prevent stock entering previously grazed areas; and~~

~~(C) transportable water trough(s) are provided in or near the area being grazed to prevent stock accessing a lake, river (excluding ephemeral rivers), artificial watercourse, modified watercourse or natural wetland for drinking water; and~~

~~(D) if supplementary feed (including baleage, straw or hay) is used in the area being grazed it is placed in portable feeders; and~~

~~(E) if cattle or deer are being grazed the mob size being grazed is no more than 120 cattle or 250 deer; and~~

~~(F) critical source areas (including swales) within the area being grazed that accumulate runoff from adjacent flats and slopes are grazed last; and~~

~~(4) from 1 May 2019, a vegetated strip is maintained in, and stock excluded from, the area between the outer edge of the bed of any lake, river (excluding ephemeral rivers where intensive winter grazing is permitted under Rule~~



~~20(aa)), artificial watercourse, modified watercourse or natural wetland for a distance of at least 5 metres; and~~

~~(5) from 1 May 2019, intensive winter grazing does not occur within 20 metres of the outer edge of the bed of any Regionally Significant Wetland or Sensitive Waterbodies listed in Appendix A, estuary or the coastal marine area; and~~

~~(6) no intensive winter grazing occurs at an altitude greater than 800 metres above mean sea level; and...~~

**Rule 20A – Intensive winter grazing**

(a) Intensive winter grazing is a permitted activity provided the following conditions are met:

(i) intensive winter grazing does not occur on more than 50ha or 10% of the area of the land holding, whichever is the greater; and

(ii) the slope of land that is used for intensive winter grazing must be 10 degrees or less; and

(iii) livestock must be kept at least:

(1) 20 metres from the bed of any Regionally Significant Wetland or Sensitive Water Bodies listed in Appendix A, nohoanga listed in Appendix B, mātaītai reserve, taiāpure, estuary or the coastal marine area; and

(2) 10 metres from the bed of any other river, lake, artificial watercourse (regardless of whether there is any water in it at the time), modified water course or natural wetland; and

(iv) critical source areas within the area being intensively winter grazed must:

(1) be identified in the Farm Environmental Management Plan; and

(2) have stock excluded from them; and

(3) not be cultivated into forage crops for intensive winter grazing; and

(v) the land that is used for intensive winter grazing must be replanted as soon as practicable after livestock have grazed the land's annual forage crop; and

(vi) a Farm Environmental Management Plan for the landholding is prepared and implemented in accordance with Appendix N, that also includes a grazing plan that includes:

(1) downslope grazing or a 20 metre 'last-bite' strip at the base of the slope; and

(2) back fencing to prevent stock entering previously grazed areas; and

(3) transportable water troughs; and

(vii) no intensive winter grazing occurs at an altitude greater than 800 metres above mean sea level; and...