

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

IN THE MATTER of the Resource Management Act 1991 (the
Act)

AND

IN THE MATTER of appeals pursuant to clause 14 of the First
Schedule to the Act in respect of the
Proposed Southland Water and Land Plan

**BETWEEN FEDERATED FARMERS OF NEW ZEALAND
INC**
(ENV-2086-CHC-00040)

Appellant and Section 274 Party

AND SOUTHLAND REGIONAL COUNCIL

Respondent

**STATEMENT OF SUPPLEMENTARY EVIDENCE OF PETER GORDON WILSON
ON BEHALF OF FEDERATED FARMERS OF NEW ZEALAND**

PLANNING (TOPIC B)

20 MAY 2022

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INTRODUCTION

1. My full name is Peter Gordon Wilson. My qualifications and experience are set out in full in my Statement of Evidence dated 20 December 2021.
2. I have read the Code of Conduct for Expert Witnesses contained in the Environment Court's Practice Note 2014, and agree to comply with it. I confirm that the issues addressed in this statement are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

SCOPE OF EVIDENCE

3. In response to the Environment Court's directions at para 14 of the Minute of the Court dated 2 May 2022, this brief statement of supplementary evidence addresses:
 - a) Policies 15A, 15B and 16A;
 - b) the Farm Environmental Management Plan (FEMP) certification and auditing process; and
 - c) inconsistency with the national instruments.

POLICIES 15A, 15B AND 16A

4. I have seen advance drafts of Ms Ruston's, Mr Willis, and Ms Taylor's evidence. I have received and reviewed the final evidence of Ms Ruston before finalising my own evidence.
5. I believe that Policies 15A and 15B are and should remain "framework" policies. I consider that Policy 16A is a "specific" policy, and I read it alongside 15A and 15B.
6. In terms of wording:
 - a) Policy 15A - I prefer the JWS version, because this retains the RMA actions and wording of "remedying" and "mitigating".
 - b) Policy 15B - I support the wording proposed by Ms Ruston. I support retention of the term 'improve' in the chapeau.

- c) Policy 16A - I support the drafting put forward in the 6 April evidence of Mr McCallum-Clark.

FARM ENVIRONMENTAL MANAGEMENT PLANS

7. I support the changes to the auditing framework as proposed by Mr McCallum-Clark at paragraph 15 of his 13 May Evidence.
8. I generally support Mr McCallum-Clark's recommended changes at paragraph 20 of his 13 May Evidence.
9. I agree with Ms Ruston that a further amendment is needed to reflect the fact the FEMP itself is not audited (the FEMP is certified), rather it is compliance with the FEMP that is audited. I agree with her recommend wording or similar:

"...a Farm Environmental Management Plan is:

(A) prepared, and certified, and ~~implemented~~ compliance with it is audited, in accordance with Appendix N; and ..."

NATIONAL PLANNING INSTRUMENTS

10. In his 13 May Evidence Mr McCallum-Clark has attempted to provide a consistency and overlap analysis between the pSWLP and the National Environmental Standard for Freshwater (**NES:F**) and section 360 Stock Exclusion Regulations (**SER**). I acknowledge that this is not a simple exercise, that the exercise is not complete, and that it cannot be completed at this time given the likely upcoming changes to the NES-F, as well as the Part 9A Regulations to introduce the freshwater farm planning regime. It is inevitable that further changes will be made to the pSWLP in due course.
11. However, where there is scope to do so I consider it is appropriate for alignment changes to be made through this Environment Court process.
12. I therefore respond to the 13 May Evidence in relation to:
- a) The SER (paragraphs 62 – 64);
 - b) The IWG regulations in the NES:F (paragraphs 65 onwards).

Stock Exclusion Regulations

13. I largely agree with Mr McCallum-Clark's analysis of consistency between the s 360 SER and the pSWLP.

14. I note two points of difference:

- a) The s 360 SER only regulate dairy, deer, pigs, and beef cattle, and for beef and deer, only beef and deer which is grazed intensively and regardless of slope. The s 360 SER provide a definition of intensive grazing that includes break-feeding, grazing on annual forage crops, or grazing on pasture that has been irrigated with water in the previous 12 months.
- b) Rule 70 of the pSWLP is more stringent. It introduces a stocking rate of less than 6 stock units per hectare across all stock types on properties with a slope above 3 degrees regardless of whether it is being grazed intensively or not.
- c) The s 360 regulations require exclusion of dairy, deer, pigs, and beef cattle from:
 - i. Natural wetlands identified in operative regional or district plans, which for Southland, are the mapped regionally significant wetlands.
 - ii. Natural wetlands that support threatened species described in the NPS-FM:2020, which are likely not identified across Southland.
 - iii. Natural wetlands on low slope land that are greater than 0.05ha in area.
- d) The pSWLP is more stringent. It requires exclusion of sheep from natural wetlands, as well as some rivers and lakes. The reasons for this additional stringency have not been provided.

Intensive winter grazing

15. The 13 May Evidence notes that "Regulation 26 provides two permitted activity pathways for IWG" but then focusses exclusively on the second.

16. Regulation 26 of the NES-F states:

Permitted activities

- (1) *The use of land on a farm for intensive winter grazing is a permitted activity if it complies with the applicable condition or conditions.*
- (2) *The following discharge of a contaminant is a permitted activity if it complies with the applicable condition or conditions:*
 - a. *the discharge is associated with the use of land on a farm for intensive winter grazing; and*
 - b. *the discharge is into or onto land, including in circumstances that may result in the contaminant (or any other contaminant emanating as a result of natural processes from the contaminant) entering water.*

Conditions

- (3) *The condition is that the intensive winter grazing must be undertaken in accordance with the farm's certified freshwater farm plan if—*
 - a. *the farm has a certified freshwater farm plan that applies to the intensive winter grazing; and*
 - b. *a certifier has certified that the adverse effects (if any) allowed for by the plan in relation to the intensive winter grazing are no greater than those allowed for by the conditions in subclause (4)*

17. This permitted activity pathway is currently missing from the pSWLP.

18. The pSWLP introduces a farm environmental planning regime that in my opinion will implement many of the aspects likely to be specified in the Part 9A Regulations. Appendix N also contains provisions which enable the auditing or certification regime to be updated or replaced to reflect the Part 9A Regulations. In practice, it will mean that in Southland, Part 9A Freshwater Farm Plans, may continue to be known as “farm environmental management plans”.

19. I remain of the opinion that the NES:F permitted activity pathway should be added to the pSWLP, for the reasons set out in my evidence of 20 December 2021.

20. While the focus of my attention to date has been on the use of the alternate pathway to exceed the area constraint (as that is the matter addressed in the appeals by Federated Farmers and Wilkins), the recent changes to the NES:F have resulted in me reflecting on this further – particularly in relation to the slope control proposed to be introduced to the IWG rule in the December 2021 JWS.
21. To recap:
- e) The decision version of the IWG rule has no constraint on slope.
 - f) The JWS version of the new Rule 20A proposes to introduce a constraint on slope in order to be a permitted activity. This is consistent with condition 4(b) of the NES:F.
 - g) However, condition 3 of the NES:F provides, as a permitted activity, the option of undertaking IWG on slope greater than 10%.
 - h) This is not currently captured in the JWS version of the new Rule 20A.
22. In my opinion, consistency can be achieved with the NES:F by simply adding a new (aa) to Rule 20A that reads:
- The use of land for intensive winter grazing that does not meet (a)(i) or (ii) of Rule 20A is a permitted activity provided a certifier has certified in a Farm Environmental Management Plan that the adverse effects (if any) allowed by the winter grazing plan are no greater than those allowed for by 20A(a)(i)-(v).*
23. This reflects the wording of condition 3 of the NES:F, which remains unchanged despite the raft of other amendments. In my opinion this reflects a high level of confidence that certifiers will be capable of undertaking the necessary effects assessment.
24. I have stress tested this myself in order to satisfy myself that such an assessment is possible:
- i) The key risks of soil loss, sediment, phosphorus and microbial pathogens are managed through the identification and exclusion of grazing from critical source areas, the 10m setback and the “last-bite” strip. These measures are

appropriate regardless of the slope of the land and will manage the effects regardless of the slope.

- j) The remaining risk of nitrogen leaching is a function of animal type, feed-type, and stocking intensity rather than slope.
- k) The requirement to certify the FEMP, and have compliance audited, provides a further safeguard. The provision of the certified FEMP to Council will bring to its attention any IWG that exceeds (a)(i) or (ii) enabling it to easily undertake its own compliance and enforcement in this area.

Peter Wilson

20 May 2022