IN THE MATTER **of the Resource Management Act 1991**

AND

IN THE MATTER **appeals under clause 14(1) of Schedule 1 of the Act in respect of Proposed Southland Water and Land Plan**

between:

TRANSPOWER NEW ZEALAND LIMITED
(ENV-2018-CHC-26)

FONTERRA CO-OPERATIVE GROUP LIMITED
(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)

(Continued on next page)

STATEMENT OF PRIMARY EVIDENCE OF GERARD MATTHEW WILLIS FOR FONTERRA COOPERATIVE GROUP LTD AND DAIRYNZ LTD

(PLANNING – TOPIC B)

20 DECEMBER 2021

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

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1. EXECUTIVE SUMMARY

1.1 This planning evidence addresses the matters that were subject to the appeals lodged by Fonterra Co-operative Group Ltd (**Fonterra**) and DairyNZ Ltd (**DairyNZ**), collectively referred to as the **'dairy interests'** that have not already been resolved by the Topic A Court decisions or mediations or direct negotiation on Topic B.

1.2 Except as indicated, all the provisions relating to the dairy interest appeal matters (as set out below) have been agreed by planners as set out in the Planning Joint Witness statement dated 10 December 2021 (**Planning JWS**).

1.3 These issues and amendments include the following:

(a) **Policy 16.** I propose that Policy 16 be amended to more clearly provide the foundation for the regulatory regime that should apply in catchments of water bodies in need of improvement. I have amended the version of Policy 16 attached to my will say statement following planning conferencing. I propose that existing farming activities in these identified catchments should be required to *minimise* their contaminant losses while any new or further intensification of farming in those catchments of water bodies in need of improvement would have to *reduce* contaminant losses (relative to the farming activity to be replaced). Outside of catchments of water bodies in need of improvement farming activities should not increase their contaminant losses.

(b) **Rule 20(a)(iii)(3)(E).** I propose that the 120-cow mob size limit be deleted from this intensive winter grazing rule as there is no technical evidence to suggest that this is necessary to manage potential adverse effects. Evidence (Farm Systems JWS 22 November 2021) has been provided to show that perverse outcomes could result. I support this part of Rule 20 being relocated to become a separate Rule 20A.

(c) **Appendix N**. I propose that Appendix N allow for a Farm Environment Management Plan (FEMP) to be based on a whole farm management plan and nutrient management plan as may be

required by resource consent authorising the discharge industrial wastewater to farmland. This will avoid potential duplication between the requirements of discharge consents and the requirement for a FEMP under Rule 20.

(d) **Rule 35A(a)(i)**. Again, I propose that the 120-cow mob size limit be deleted from this rule permitting feed pad/lots. There is no evidence to suggest that such a limit will be an effective way to manage adverse effects on water quality.

1.4 The provisions I propose are included within the body of this evidence where helpful and for ease of reference. The full suite of relevant provisions are set out in **Attachment 2**. These provisions are consistent with the version of the provisions attached to the Planning JWS with the minor exceptions summarised in section 9 (conclusion) of this evidence.

1.5 For the reasons set out from paragraph 5.20 of this evidence I agree with the maps of 'catchments of water bodies in need of improvement' as included in the evidence of Dr Depree[1].

2. INTRODUCTION

2.1 My full name is Gerard Matthew Willis.

2.2 I am a director of Enfocus Ltd, a resource management consultancy based in Auckland. I have practised as a planner and resource management specialist for the past 32 years.

2.3 I hold a Bachelor of Regional Planning (Hons) degree from Massey University. I am a full member of the NZ Planning Institute (**NZPI**) and an accredited decision-maker under the Ministry for the Environment's Making Good Decisions Programme. In 2017 I was awarded the NZPI national award for Best Regional or District Plan. In 2018 I received the Commonwealth Association of Planners' award of Excellence for Outstanding Planning Achievement in the Commonwealth.

[1] Statement of Primary Evidence of Craig Depree for DairyNZ Ltd and Fonterra Cooperative Group Ltd, 20 December 2021.

2.4 My previous experience includes working in policy and regulatory planning roles in local government. I also spent a considerable part of my early career in central government roles including as a senior policy analyst at Ministry for the Environment (**MfE**) and executive assistant to the Minister for the Environment.

2.5 Since 2001, I have been a planning and environmental consultant, establishing my own practice in 2002. In that capacity I have acted for a number of district and regional councils on planning issues and provided advice to companies, iwi trusts and government agencies. Of note, over recent years, I have advised five different regional councils on the development of regional policy statements and/or regional plans (in whole or part).

2.6 I have also been, and continue to be, involved in reform of freshwater management at the national level:

(a) I was previously engaged by MfE under the Sustainable Water Programme of Action to advise on alternatives to first-in-first served allocation regimes and on barriers to tradeable permits.

(b) In 2010 I was engaged by MfE to assist in the New Start for Freshwater Programme with specific involvement in water governance issues.

(c) In 2013 I was engaged by MfE to draft amendments to the NPSFM, including the incorporation of the National Objectives Framework.

(d) In 2016 I was engaged by MfE to provide independent comment on the workability of the proposed changes to the NPSFM.

(e) In September 2018 I was contracted to MfE, on a part time basis as a member of the cross-agency Water Taskforce, established to implement the Government's "Essential Freshwater" reform programme.

(f) In 2020 I was appointed to the Government's Overseer Expert Advisory Group which reviewed, and reported on, the Scientific Advisory Group's technical review of Overseer. I was subsequently contracted to advise on, and draft the Government's response to, the technical review. I am currently a member of the Ministry for the Environment's working group on the development of a farm scale contaminant loss risk index tool.

2.7 My relevant experience also involves the preparation of planning evidence for hearings in relation to water quantity and/or quality matters in respect of Horizons One Plan and Plan Change 2 to that plan, Variation 6 and Plan Change 1 to Environment Waikato's Regional Plan, Proposed Change 6A to the Otago Regional Plan, the Gisborne Regional Freshwater Plan, Plan Changes 6 and 9 to the Hawkes Bay Regional Resource Management Plan, the Southland Regional Water and Land Plan, Plan Changes 9 and 10 to the Bay of Plenty Natural Resources Plan, the Northland Regional Plan, the Wellington Natural Resources Plan and, in Canterbury, the Proposed Hurunui and Waiau Rivers Regional Plan, the Canterbury Land and Water Regional Plan (**CLWRP**), including Variations (now Plan Changes) 1 and 2, and Plan Changes 3, 5 and 7 to the CLWRP.

3. BACKGROUND

Code of conduct

3.1 I have read the Environment Court's Code of Conduct for Expert Witnesses, and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state I am relying on the evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

Scope of evidence and preliminaries

3.2 I have been asked to prepare this evidence for the Dairy Interests. My evidence covers the Topic B provisions that are subject to the Dairy

Interests appeals. These provisions and the associated issues of concern are as follows:

(a) Policy 16 – Farming activities that affect water quality. My evidence addresses how catchments of water bodies in need of improvement should be recognised in the policy.

(b) Rule 20 – Farming. My evidence addresses:

(i) the cap of 120 cattle (Rule 20(a)(iii)(3)(E)) which is proposed to apply to winter grazing as a permitted activity (a DairyNZ appeal point); and

(ii) the relationship of Rule 20 to rural land used for the disposal of industrial wastewater and in particular whether such land should require a FEMP under Appendix N (a Fonterra appeal point).

(c) Rule 35 (Discharges of agricultural effluent to land) and 35A (feedpads/lots). My evidence addresses whether feedpads/lots and associated discharges should be capped (as permitted activities) at 120 cows (a DairyNZ appeal point).

4. RELEVANT PLANNING INSTRUMENTS

4.1 My understanding of the relevant statutory planning framework is as set out in **Attachment 1.** In respect of the matters addressed in this evidence, that includes relevant provisions of the New Zealand Coastal Policy Statement 2010 (NZCPS), the National Policy Statement for Freshwater Management 2020 (NPSFM) and Southland Regional Policy Statement (SRPS) which must be all "given effect to" under section 67 (3) of the Act. Iwi management must be taken into account in accordance with section 66 (2A).

4.2 Section 66 (1) (b) provides that the Council must prepare its plan in accordance with Part 2 of the Act. I do not review that in detail here because I consider Part 2 to be reflected in the higher-level planning direction. The exception to that is that I do comment on Section 8 of

the Act as the Court has previously indicated[2] it has a particular need for planning evidence on that matter.

4.3 I also address the concept of Te Mana o te Wai being a fundamental concept of the NPSFM and a matter on which the Topic A hearing decisions found needed to be at the forefront of decisions about water and land. This is reflected by the interpretation statement introduced in the Court's Third Interim Decision.

4.4 In addition, where relevant I refer to specific provisions of the NPSFM and the Resource Management (**National Environmental Standards** for **Freshwater**) Regulations 2020 (**NES-F**) in the planning analysis set out later in this evidence.

Treaty Principles

4.5 Section 8 of the Act requires those exercising functions under the Act to take into account the principles of the Treaty of Waitangi (Treaty principles). There is no single authoritative set of Treaty principles but in my experience, *He Tirohanga o Kawa ki te Tiriti o Waitangi 2001*, published by Te Puni Kokiri is a commonly referenced source. This document lists the following principles:

(a) Partnership

(b) Reciprocity

(c) Mutual benefit

(d) Duty to act, reasonably, honourably and in good faith

(e) Duty to make informed decisions

(f) Active protection

(g) Redress.

4.6 I understand that the relationships between these principles is variously described with some principles seen as subsets of, or as deriving from, the core principle of partnership. I also understand that additional

[2] Second interim decision of the Environment Court, paragraph18.

principles are sometimes asserted. While many of these principles have potential application in the resource management context, in my experience the principle of *partnership* (connected with the duty to act reasonably, honourably and in good faith) and *active protection* are generally the focus in the resource management context.

4.7 In my opinion, those Treaty principles are not in conflict with the proposals I include in this evidence. The changes I propose to the proposed Southland Water and Land Regional Plan (**pSWLRP**) do not seek to achieve "less protection" or "less partnership". They simply seek to ensure that the pSWLRP does not include controls that are unnecessary, inefficient or an ineffective way, to achieve the protection sought. Hence, while I have taken into account the Treaty principles in preparing this evidence I do not consider them to be a determining factor in proposing the provisions that I do.

4.8 I have, however, taken into account the concept of hauora being the subject of Objective 2 of the pSWLRP as a matter that was discussed at some length in the expert conferencing. A desire to recognise the concept of hauora has shaped the approach I have taken to how catchments of water bodies in need of improvement should be mapped and referenced in the pSWLRP.

NPSFM - Te Mana o te Wai

4.9 The concept of Te Mana o Te Wai was first included in the NPSFM in 2014 but that early reference included little detail on what the concept meant or how it was to be given effect to[3]. That detail was added by the 2017 amendment (i.e. during hearings on the pSWLRP). Objective AA1 of that NPSFM required councils to consider and recognise Te Mana o te Wai in the management of fresh water. Policy AA1 required councils to change plans to do that – recognising the Te Hauora o te Taiao (health of the environment) Te Hauora o te Wai (health of the waterbody) and Te Hauora o te Tangata (health of the people). It also required that values identified with the community, including tangata whenua, must inform freshwater objective and limit setting

[3] Te Mana o te Wai was referred to in the Preamble to the 2014 NPSFM and in a statement on national significance. It did not appear in the objectives of policies nor was it defined.

workstreams. It did not require a specific Te Mana o te Wai objective to be included in regional plans nor did it prioritise the three "healths" noted above.

4.10 The NPSFM 2020 (released after the Topic A Court hearing) has added further clarification of the meaning of Te Mana o te Wai and elevated the concept's importance. The concept centres on the importance of freshwater to the health and well-being of the wider environment but its full meaning has three dimensions:

(a) The hierarchy of obligations (or 'priorities') – the health of water first, the health needs of people second, and the ability of people to provide for their social, cultural and economic wellbeing third (1.3(5) NPSFM 2020).

(b) Six principles that apply to the *role* tangata whenua (and other New Zealanders) should play in water management - Mana whakahaere, Kaitiakitanga, Manaakitanga, Governance, Stewardship, Care and respect (1.3(4) NPSFM 2020).

(c) The local interpretation/expression of Te Mana o te Wai as is required to be determined by regional councils under Clauses 3.2 and 3.4 of the NPSFM 2020.

4.11 Ensuring that land and water are managed on the basis of the Te Mana o te Wai hierarchy of obligations is the sole objective of the NPSFM 2020 (Objective 2.1).

4.12 In my opinion, the management framework prescribed by the NPSFM itself goes a long way to implementing this hierarchy. This requires regional councils to take a values-based approach (which includes compulsory values of ecosystem health), setting environmental outcomes to reflect the values, establishing target attribute states to achieve the outcomes and setting limits and action plans to achieve the target attribute states over time. This approach ensures that health of the river is always the starting point for the design of a management framework.

4.13 I understand the general concept and principles of Te Mana o te Wai, as now expressed in the NPSFM 2020, to require reflection in *outcomes* sought by regional plans (as discussed above) but also in the *process* of developing and implementing those plans. I also understand that it has a *local expression* and meaning that needs to be identified and reflected in the provisions of regional plans. This will be challenging and, in my opinion, cannot be achieved in full ahead of Plan Change Tuatahi and its implementation.

4.14 As noted above, the interpretation statement introduced to the pSWLRP, as a result of the Court's Third Interim decision, notes that the pSWLRP embodies and upholds Te Mana o te Wai and that this (together with ki uta ki tai) are at the forefront of all discussions and decisions about water and land. That is certainly the case for Te Mana o te Wai as it was described prior to the NPSFM 2020. That may not remain the case under the NPSFM 2020, but even if it does not, in my opinion, that is not in itself fatal because the NPSFM allows for, and anticipates, new plans/plan changes before the end of 2024 to give full effect to Te Mana o te Wai (and the rest of the NPSFM).

4.15 Notwithstanding that, in my opinion none of the amendments proposed in this evidence would be in conflict with the hierarchy of obligations nor do they affect the implementation of the six principles of Te Mana o te Wai. How the provisions I recommend relate to the hierarchy of obligations is outlined later in this evidence where it is relevant to do so.

5. POLICY 16 – FARMING ACTIVITIES THAT AFFECT WATER QUALITY

5.1 Fonterra's submission sought deletion of the reference in Policy 16(1)(b)(ii) to applications for certain farming activities not being granted where *"existing water quality is already degraded to the point of being overallocated".*

5.2 The basis for that submission was that, in the absence of freshwater objectives being set in accordance with the NPSFM 2017 (as then applied), there was no clarity about what 'degraded' or 'over-allocated' meant. In particular, the proposed wording raised the question of

whether the concepts of 'degradation' and 'over-allocation' were to be interpreted by reference to water quality attributes *in addition* to those set out in the pSWLRP's Appendix E Water Quality Standards and Appendix C ANZECC sediment guidelines.

5.3 This issue was addressed in part in the Court's Topic A First Interim Decision and the water quality experts' joint witness statements (JWSs)[4]. I understand the Court's decision to say that if the pSWLRP is to use the term 'degraded' it must be clear what it means. I further note that the Court's decision on Topic A confirmed wording for Objective 6 that requires water quality degraded by human activity to be improved.

5.4 Objective 6 reads:

> *Water quality in each freshwater body, coastal lagoon and estuary will be:*
>
> *(a) maintained where the water quality is not degraded; and*
>
> *(b) improved where the water quality is degraded by human activities.*

5.5 As I understand it, the Court's interim decisions have also confirmed that this obligation applies before the plan change that will give full effect to the NPSFM (now referred to as Plan Change Tuatahi). Because the pSWLRP does not currently contain target attribute states (TASs) for all the attributes that will be needed to give full effect to the NPSFM 2020, the *degree* of improvement required, both at the catchment and individual property scales, cannot be known at this time.

5.6 Until plan change Tuatahi is notified, the requirement to 'improve' must focus on 'making a start', with the degree of change required being linked to what is reasonably practicable in the next 3-4 years rather than, necessarily, what is needed to deliver a specific in-stream outcome, or hauora.

5.7 For those reasons, I do not support the straight deletion of Policy 16(1)(b)(ii) as sought in the Fonterra appeal.

[4] The Water quality experts produced 5 JWSs dated of the 7th to the 9th of May 2019, 3-4 September 2019, 14-16 October 2019, 20-22 November 2019 and 24-26 November 2021

5.8 In considering how best to incorporate this direction into Policy 16 it has become apparent that greater certainty is required about the nature of obligations that should exist for:

(a) Existing farming activities operating in a catchment of a water body not in need of improvement

(b) Existing farming activities operating in a catchment of a water body in need of improvement

(c) New farming activities (ie. conversions) and intensification of existing farming activities in a catchment of water body not in need of improvement

(d) New farming activities (ie. conversions) and intensification of existing farming activities in a catchment of a water body in need of improvement

5.9 As noted above, Objective 6 requires *improvement* in a catchment where a water body is in need of improvement and *maintenance* in a catchment where water quality is not in need of improvement. In my opinion, that should mean that, in the absence of an allocation regime, no farming activity, whether in a catchment of a water body in need of improvement or not, should result in an increase in contaminant loss.

5.10 In addition, all these activities should be required to adopt good management practice (through FEMPs). That broadly[5] translates into a requirement to *minimise* contaminant losses to the extent it is reasonably practicable (ie. where there are viable mitigations/practice improvements that are feasible to adopt).

5.11 The concept of minimisation is important, particularly for existing farming activities, because it acknowledges that an individual farm need not reduce its contaminant loss if that loss is already minimised. On the other hand, it also implies that just 'doing a little bit' is not enough if more reduction is reasonably practicable. My understanding is that the evidence of Mr Duncan will say, some farms already operate at good

[5] The concept of minimisation may go further than the adoption of GMP but I do not consider it necessary to draw that distinction here, particularly given the number of catchments of water bodies in need of improvement,

management practice[6] but that there are many other farms not yet operating at that level. Accordingly, if all farms in a catchment were brought up to GMP standard (by being required to minimise losses) then there would be catchment-scale contaminant loss reductions and a consequent improvement in water quality (notwithstanding that some individual farms may not be reducing losses).

5.12 However, in catchments of water bodies in need of improvement, Objective 6 suggests that there should be an expectation of greater progress. While 'minimisation' is still a valid and important concept in catchments of water bodies in need of improvement, allowing land use change or the intensification of an existing farming land use within the contaminant loss 'footprint' of the existing activity subject only that the losses by that 'new' activity are minimised will not necessarily contribute to an improvement in water quality.

5.13 Accordingly, while I consider that the requirement that contaminant losses should be *minimised* by an individual farm (whether new or existing) should apply everywhere, I consider that existing intensified activities in catchments of water bodies in need of improvement should be required to demonstrate a *reduction* in such losses.

5.14 Finally, I consider that the use of the word "degraded" is inappropriate to use in Policy 16 (which is why I have not used it elsewhere in this evidence). I say this for two reasons:

(a) Ms Cain's advice to the planners has been that the concept of hauora (being the ultimate aim of the PSWLRP under Objective 2) implies that there should be a focus on achieving positive outcomes (a healthy state) not allowing degradation down to a certain level and that this requires a 'flipping' of language from the negative to the positive.

(b) The term "degraded" is used in the NPSFM. In the context of water quality, a site is *degraded* under the NPSFM when an attribute is below either a national bottomline (as set out in the

[6] Including, in particular, farms that have prepared and are implementing Farms Plans under Fonterra's Tiaki programme.

national objectives framework (**NOF**) of Appendix 2A or 2B of the NPSFM), or target attribute state set for that attribute by the plan. A freshwater management unit (**FMU**) is also degraded when it is less able to provide for a value identified for it under the NOF compared to 7 September 2017[7]. At this time, target attribute states have not been set and the various thresholds applied by the water science experts (as recorded in their JWSs) do not focus solely on national bottomlines. Nor do I understand the experts to have provided a comparison as to whether values are less able to be met relative to September 2017.

5.15 For those reasons, I propose that part (b) of Policy 16 be reworded as follows:

(b) ensuring that, existing farming activities ~~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; or~~

~~(ii) existing water quality is already degraded to the point of being overallocated~~

~~(iii) water quality does not meet the Appendix E Water Quality Standards or bed sediments do not meet the Appendix C ANZECC sediment guidelines; and~~

(i) minimise nitrogen, phosphorus, sediment or microbial contaminant discharges; and

(ii) reduce adverse effects on water quality where the farming activity occurs within the catchment of a waterbody that requires improvement identified in Schedule X; and

(iii) demonstrate how (i) and (ii) is being or will be achieved through the implementation of Farm Environmental Management Plans prepared in accordance with (c) below and in addition,

(ba) ensuring that the establishment of new, or further intensification of existing, dairy farming of cows or intensive winter grazing activities:

[7] The definition of degraded is set out in section 1.4 of the NPSFM 2020

(i) does not result in an increase in nitrogen, phosphorus, sediment or microbial contaminant discharges; and
(ii) minimises nitrogen, phosphorus, sediment or microbial contaminant discharges; and
(iii) reduces nitrogen, phosphorus, sediment or microbial contaminant discharges where it occurs in a catchment of a waterbody that requires improvement identified in Schedule X.
(iv) is avoided in close proximity to Regionally Significant Wetlands and Sensitive Water bodies identified in Appendix A; and

(c)~~2.~~ requiring all farming activities to be undertaken in accordance with ~~implement~~ a Farm Environmental Management Plan that:
(i) identifies whether the farming activity is occurring, or would occur, in a catchment of a waterbody that requires improvement identified in Schedule X;
(ii) identifies and responds to the contaminant pathways (and variants) for the relevant Physiographic Zones;
(iii) set out how adverse effects on water quality from the discharge of contaminants from farming activities will be minimised or, where the farming activity is occurring in a catchment of a waterbody that requires improvement identified in Schedule X, reduced;
(iv) is certified as meeting all relevant requirements of this plan and regulation under Part 9A of the RMA; and
(iv) is independently audited and reported on;

5.16 The reframing of 16(1)(b) is important because the decisions version of (b) only addresses how resource consent applications are to be managed. In my opinion, Policy 16 needs to provide the foundation for how water quality in need of improvement is managed in the plan as a whole not just the approach to be taken by Council as consent authority when a resource consent application may be made for a new or intensified land use.

5.17 In addition, in the full version of Policy 16 included in this evidence as Attachment 1, various other amendments are proposed to the structure of Policy 16. These additional amendments (along with the amendments shown above) were agreed as recorded in the Planning JWS[8].

[8] The only change I have made from the version agreed in the Planning JWS is to correct the grammar of Clause 1 (b) (ii) by moving the verb 'minimise' to the beginning of the sub-clause consistent with the structure of sub-clauses (ii) and (iii). The word 'for in Clause (1) (b) has been deleted to correct the syntax.

‘Staggering’ of requirement for certified FEMPs

5.18 In addition to the amendments shown in the version attached to the Planning JWS, one further addition may be necessary to provide for the staged requirement for FEMPs. This may be necessary to ensure that there is not widespread non-compliance on the day on which the pSWLRP becomes operative. While the Farm System JWS records agreement that, within the dairy sector, resourcing exists for FEMPs “to be delivered without a significant lag”, I note that this does not mention the other agricultural sectors. The same JWS also records the view that “staggering of FEMP preparation would be advantageous to spread the workload of both the advisors and auditors”. While I accept that such “staggering” could be achieved through the council working with the various sectors, farmers and service providers through an agreed implementation plan, I am conscious that the result of this is that some farmers will likely be left in the uncomfortable position of being non-compliant with the plan until they have a FEMP prepared and certified and that this exposes them to some legal risk. In effect they would be relying on the council (and other parties) not taking legal action.

5.19 It is a matter I will address in more detail in my evidence prepared in relation to the dairy interests’ section 274 matters.

Mapping of waterbodies in need of improvement

5.20 I am aware that Policy 16 (and the rules that implement it) are reliant on the ‘catchments of waterbodies in need of improvement’ being mapped. While the Science JWS indicates that mapping is possible, I understand that there were some unresolved issues about quite what should be mapped. No maps were generated as part of that conferencing.

5.21 In the absence of jointly agreed maps, Dr Depree has prepared his own maps. These show catchments of:

(a) waterbodies that need improvement in *aquatic ecosystem health* and another

(b) waterbodies that need improvement for *human health*

5.22 In my opinion, mapping these two sets of values is consistent with Policy 3 of the NPSFM and Objective WQUAL.1 – Water quality goals of the Southland RPS (see Attachment 1).

5.23 In terms of the aquatic ecosystem health mapping, I understand that the approach taken by Dr Depree is to focus on MCI as an integrated biological indicator that, in his opinion, best represents the broad concept of ecosystem health and hauora (as he understands that term). I understand Dr Depree to say that focussing on the range and abundance of what is living in the beds of Southland's rivers provides a good indication of the health of those rivers. This contrasts with an approach on focusing on what may be *drivers* of/influences on aquatic ecological health (such as nutrients) but which have, as I understand it, a complex, indirect and nonlinear relationship with in-stream health.

5.24 I also understand from Dr Depree that the Region's estuaries, as the terminal receiving environment of contaminants, need to be considered as they can be the most susceptible environments along the mountains to sea continuum. Accordingly, the eutrophic state of these important receiving environments needs to be reflected in any maps of waterbodies in need of improvement. I agree with that and in my opinion that is consistent with the concept of *ki uta ki tai*, being one of the underpinning concepts of the pSWLRP as reflected by the interpretation statement confirmed as part of the Topic A decision. Focusing on the coastal receiving environments is also necessary to give effect to Policy 21 of the NZCPS (see Attachment 1).

5.25 I also consider driving mapping (in part) by reference to the state of receiving estuarine environments would assist to give effect to Objective WQUAL.2 of the Southland RPS and Objective 6 of the pSWLRP (see Attachment 1). Both of these provisions refer to the need to halt the decline and improve water quality in coastal lagoons and estuaries.

5.26 Dr Depree also considers that mapping exceedances of MCI thresholds as well as catchments contributing to estuarine eutrophication would result in mapping the same, or very similar area, as that which would

result from mapping of nutrients and sediment at the concentration thresholds referred to in the Science JWS.

5.27 In addition, to recognise human health, Dr Depree considers catchments needing improvement for *E.coli* should be mapped separately. This attribute relates to human contact recreational values rather than aquatic ecosystem health or the broader concept of hauora and different responses at the farm level may be required (with an emphasis on stock exclusion and setbacks). I understand that Dr Depree has mapped E.*coli* using the exceedance thresholds agreed in the Science JWS (November 2019).

5.28 The benefits of taking Dr Depree's approach have been described by Dr Depree from paragraph 4.13 his evidence and summarised above. From a planning perspective, I would add that taking Dr Depree's approach avoids having to pre-empt the setting of (in effect) target attribute states (TAS) and in-stream concentrations and nutrient criteria (ICEC) under Plan Change Tuatahi[9]. While the setting of a TASs and ICEC for Dissolved Inorganic Nitrogen (DIN) Dissolved Reactive Phosphorus (DRP) are required by clauses 3.11 and 3.13 of the NPSFM respectively, those are complex tasks that should be undertaken in accordance with the process steps set out in the NPSFM[10]. I understand that work is currently underway to complete the mandatory process steps (as set out in clauses 3.3, 3.4 and 3.7-3.13 of the NPSFM) but that those steps have not been completed and the prospective TASs and ICEC are yet to be subject to public consultation under Schedule one of the Act.

5.29 In the absence of that work I consider that applying the attributes and thresholds outlined by Dr Depree to be appropriate and the most efficient and effective way of achieving the pSWLP objectives in this interim period prior to Plan Change Tuatahi.

5.30 I note that a minor amendment to Appendix N will be prudent to ensure that it is clear that in catchments mapped as "in need of improvement in aquatic ecosystem health", farms will need to focus on both nutrient

[9] Once these are set, they will determine what is 'degraded' for the purpose of the NPSFM.
[10] These must be completed in time for notification of the implementing plan by 31 December 2024.

(N and P) losses and sediment as well as mitigations that improve habitat quality. Accordingly I propose that Appendix N include the following addition (in blue) to clause (b) in section 6.

(b) where the farm is located within a catchment of a waterbody that requires improvement identified in Schedule X, the mitigations that will achieve a reduction in the discharge of the contaminants where relevant to the farming activity that trigger the requiring improvement status of the catchment (noting that in catchments of waterbodies where aquatic ecosystem health requires improvement, reductions and mitigation required will address nitrogen, phosphorus and sediment losses and the effect of those losses).

6. RULE 20 - LIMITING CATTLE MOB SIZE TO 120 COWS DURING INTENSIVE WINTER GRAZING

6.1 Part (a) (iii) (3) E of Rule 20 addresses intensive winter grazing (IWG) and is the subject of an appeal by DairyNZ.

6.2 I propose that the IWG parts of Rule 20 be separated out as a new Rule 20A. That is based entirely on a desire to reduce complexity and improve readability.

6.3 I note that the Draft Council Relief attached to Mr McCallum Clarke's will say statement (11 November 2021) also proposes that the IWG provisions be separated out. Planners agreed to this new structure in the Planning JWS.

6.4 The substantive change I propose relates to the deletion of the 120-cow mob size limit. My support for this deletion is based on the evidence of Dr Dawn Dalley[11] and the Farm Systems JWS.

6.5 Based on that evidence, limiting mob size is not important for managing the effects of IWG on water quality because risk of contaminant loss is related to the stocking density rather than the number of cows (all things being equal).

[11] Statement of Primary Evidence of Dawn Ellen Dalley, 20 December 2021

6.6 Cow density is dictated by the yield of the crop and/or the amount of crop being allocated per animal per day. In other words, in the absence of regulatory control over mob size, the number of cows in a mob in a paddock will be determined by the amount of feed that is available for them to eat, which in turn is determined by the paddock size (and to some extent shape). Density will therefore be largely constant over crops of the same type/yield regardless of mob size.

6.7 That being the case, a mob size limit will not reduce stock density it will simply mean that more paddocks are grazed simultaneously. The Farm Systems JWS (22 November 2021) notes that this could lead to the following perverse outcomes for water quality:

(a) more individual mobs under IWG at one time therefore potentially more critical source areas to be managing; and/or

(b) 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; and/or

(c) more mobs will increase the complexity of developing and implementing adverse weather plans, potentially increasing the environmental risk.

6.8 Based on that advice, I consider that retaining the 120-cow mob size limit would not pass the effectiveness and efficiency test of section 32 of the Act.

6.9 I note that the Draft Council Relief of 11 November 2021 proposes that the 120-cow mob size limit be retained in the new Rule 20A but that this was proposed before the benefit of witness conferencing.

6.10 I am not aware of any evidence to support the 120-cow mob size being retained and for the reasons set out above, I propose that is be deleted. This was also agreed as part of the Planning JWS.

6.11 I include the full Rule in Attachment 2, noting that the question of whether a 5m or 10m setback requirement should apply to IWG remains

unresolved. That is a matter I will address in by evidence for the dairy interests' s274 matters.

7. LIMITING THE USE OF FEEDPADS AND FEEDLOTS OF MOBS OF 120 CATTLE

7.1 Rule 35A makes the use of land for a feed pad/lot a permitted activity provided (amongst other things) the feed pad/lot services no more than 120 adult cattle or equivalent numbers of young stock at any one time.

7.2 DairyNZ appealed against this condition (i) on the basis that there was no environmental justification for it. I support DairyNZ's position on this matter.

7.3 Based on the evidence of Dr Dalley, I understand that the environmental risk associated with feed pads/lots is related to the potential for animal effluent to be concentrated in a small area creating a heightened risk of contaminant losses to water via overland flow and/or leaching to groundwater. The most effective way to address this risk is to require that the feed pad/lot has a sealed and impermeable base and for the liquid animal effluent and stormwater to be collected and disposed of in an appropriate manner (ie. through the farm dairy effluent system usually involving managed irrigation to pasture at a rate that minimises risk of leakage to water). I understand that an alternative approach of a deep base of wood-based material (ie. bark/chip or sawdust) can be an alternative method of achieving a similar result. Rule 35A requires the adoption of one or other of those options.

7.4 If Rule 35A (i) is retained without amendment it would allow two 120-cattle feed lots/pads to be constructed and used provided they locate 50m apart. A farmer could, theoretically construct multiple facilities in that way to avoid the need for a resource consent. I am conscious, however, that this would add cost to farmers but not lead to any additional environment benefit. In my opinion, the adverse effect on water quality from, for example, two 100-cow feed pads/lots 50m apart would be no different to a single 200 cow feed lot/pad (which would not be permitted and require resource consent).

7.5 I understand the feed pads/lots can be an effective and important mitigation measure to assist in reducing contaminant losses on farm. Rules that make the use of feed pads/lots more difficult and expensive than they need to be create a disincentive for the use of this mitigation.

7.6 I also note that feed lots and feed pads are regulated by the NES-F. Regulation 9 provides that a feed *lot* (ie. a facility where cattle are kept for at least 80 days in a six-month period and fed entirely by hand or machine) can only hold cattle as a permitted activity if those cattle are less than 4 months old or under 120kgs in weight. Under Regulation 13, a feed *pad* (the form of feeding facility more common in Southland) is only permitted if it holds stock that are less than 4 months old or less than 120kg in weight; or the base area is sealed. These facilities must also be at least 50m from a water body, bore, drain and coastal marine area. The NES-F does not limit the number of animals that may use these facilities.

7.7 Rule 35A contains these same conditions as apply under the NES-F (along with other conditions that are considered locally appropriate). In general, Rule 35A is more stringent that the NES-F. The only aspect of the Rule that is less stringent than the NES-F is the ability for a feed pad to use wood chip as an alternative to full impermeability for stock more 4 months old or heaver that 120kg. The NES-FM will prevail over the rule in that regard.

7.8 Rule 35A is set out in full in Attachment 1. The relevant change I propose is shown in red text as follows (note that I have not addressed the issue of deer numbers as that would be outside the scope of the dairy interests appeals).

> *(a) The use of land for a feed pad/lot is a permitted activity provided the following conditions are met:*
>
> *(i) if accommodating ~~cattle or~~ deer, each feed pad/lot services no more than ~~120 adult cattle~~, ~~or~~ 250 adult deer, or equivalent numbers of young stock at any one time;*

7.9 I note from the Draft Council version of the provisions attached to the will way statement of Mr McCallum-Clark that he is in agreement that Rule 35A should not include the 120 cattle limit. I also note that the

Planning JWS records agreement on the deletion of condition (i) in its entirety. That is how Rule 35A is shown in Attachment 2.

8. RELATIONSHIP OF RULE 20 TO RURAL LAND USED FOR THE DISPOSAL OF INDUSTRIAL WASTEWATER

8.1 It is commonplace for industrial facilities to discharge their process wastewater to large areas of rural land which is also used for some form of farming activity.

8.2 Fonterra's Edendale manufacturing site is a case in point. Fonterra holds three discharge permits allowing industrial (process) wastewater from the Edendale manufacturing site to be irrigated to 758ha farmland across five farm properties within 4km radius of the manufacturing site. The land is largely used for 'cut and carry' silage production but sheep (lambs and hoggets) are grazed during the shoulder season (May-October).

8.3 The term 'farming activity' is not defined by the pSWLRP but in my opinion the production of silage and the periodic grazing of sheep on land also used for the disposal of industrial wastewater, would be considered a farming activity and needs to comply with Rule 20 of the pSWLRP. To be a permitted activity under part (iv) that rule, it would need to have a FEMP prepared and implemented in accordance with Appendix N.

8.4 This raises a potential issue for Fonterra (and potentially for other industrial dischargers) because that 760ha of land at Edendale is already subject to a "whole farm management plan" (WFMP) and nutrient budget required as part of its discharge permit for the site. Another management plan in the form of a FEMP is unnecessary but also, if there were to be two management plans there is potential for inconsistency and a risk that the same activity could be 'regulated twice'.

8.5 If the Edendale land were to be used for a farming activity without a FEMP prepared under Appendix N of the pSWLRP, it would require discretionary activity consent for that land use, despite holding

discretionary consent for the discharge – the conditions of which manage the same contaminant loss risks.

8.6 Existing conditions on the discharge permits require that the WFMP includes, but not be limited to, the following specific matters aimed at *minimising* the effects of wastewater on the environment:

(a) The integration and operational management of the farm operations and wastewater irrigation to achieve compliance with the conditions of consent and prioritisation of land treatment over discharge of wastewater to the Mataura River;

(b) The identification of soils and how irrigation will be undertaken taking account of differing soil types, soil moisture, weather, volume of wastewater being generated by the manufacturing site and the level of the storage pond;

(c) Decision making procedures between the treatment options;

(d) Odour and spray drift management including flushing of lines following irrigation events and wastewater buffer tank mixing and cleaning;

(e) Existing and future tree/shelterbelt management on irrigation farms;

(f) Pasture and soil management;

(g) Farming operations including animal stocking and cut and carry operations;

(h) Roles and responsibilities;

(i) Contingency planning including in the event of irrigation equipment and pipeline failures and wet weather management; and

(j) A schedule of preventative maintenance measures.

8.7 The Edendale WFMP dated November 2021 is included in this evidence as **Attachment 3**. It contains the matters set out above

including, most relevantly for the farming policies, a description of soil management (including nutrient management and fertiliser use) and stock management (including detailing riparian fencing/stock exclusion).

8.8 An environmental monitoring manual is also required as a condition of consent as is a separate annual nutrient management plan (**NMP**) for the land. The NMP provides block-scale detail on nutrient status (inputs and modelled losses). The consent requires the NMP to be prepared by a suitably qualified and experienced person and must:

(a) be developed based on the inputs of Overseer, or an equivalent model as agreed to in writing with the Consent Authority;

(b) as a minimum record the following information for nitrogen, in units of kg N/ha/yr:

(i) Inputs from any application of wastewater, fertiliser, wastes and any other nitrogen source;

(ii) Outputs from the farm system, including the export of stock and crops;

(iii) Results of soil testing; and

(iv) Predicted nitrogen leaching;

(c) include methods on how to maximise the renovation of contaminants and the uptake of nutrients from the wastewater irrigation and to minimise the leaching of nutrients to groundwater, particularly in relation to nitrogen.

8.9 I have assessed the Edendale WFMP and NMP against the requirements of Appendix N Part B (Farm Environment Management Plan content). In my opinion, together, these documents contain almost all the key information including:

(a) The physical address, legal description and applicable resource consents for the land;

(b) An aerial photograph showing all land parcels where the activity occurs;

(c) Features such as streams, ponds, artificial water course are visible on the aerial photograph (although the scale could be increased);

(d) Confirmation that no winter grazing (as defined in the pSWLRP) or cultivation occurs;

(e) A description of existing riparian fencing and planting;

(f) A detailed nutrient budget (which uses Overseer to estimate nutrient losses); and

(g) A description of the good management practices used. These include:

(i) Testing of infiltration rates and soil hydraulic connectivity along with production of water balances to ensure soil and irrigation management is maintained within guideline values

(ii) Use of alternative wastewater disposal methods (storage or discharge to river after secondary treatment) or when soil moisture levels are too high.

(iii) Use of cut and carry (with at least three, and if the growing season permits, four silage cuts- minimising livestock stock on the properties).

(iv) Regular soil testing (to minimise the need for maintenance fertiliser), and visual soil assessment to examine physical condition of soil with aeration undertaken where necessary to management soil compaction.

(v) Pest (grass grub) and weed control and re-grassing where necessary.

(vi) A sheep-only grazing system.

8.10 In addition, conditions of consent impose various discharge limits (volumes that vary by soil type and nutrient loadings) and require particular mitigations to be undertaken, including, in particular, a requirement for 5m wide riparian buffer planting and boundary planting and a 50m setback of waste irrigation from surface water bodies.

8.11 In my opinion, given the nature of the land and the farming activity on that land, the contents of the WFMP, together with the consent conditions, appropriately address the risks to water quality associated with the overland flow of contaminants and below rootzone leaching of nitrogen both from the discharge of industrial wastewater and from the ancillary farming activity. There are a small number of matters that are not be included the WFMP as it currently stands. These include depiction of physiographic zones and subsurface drainage and drain outlets, identification of critical source areas, heritage sites, the presence of taonga species and other significant values on nearby land and waters. As noted above, the aerial photograph possibly needs to be at a larger scale (or more practically a photograph included for each of the five properties, noting that such photographs are already included with the discharge consents themselves). However, these matters could be added and the WFMP updated. The updated WFMP would need to comply with the proposed audit and certification requirements, which will ensure a robust pathway confirming compliance with the Appendix N Part B content.

8.12 The Fonterra appeal seeks an exception be provided within Rule 20 for any land that is subject to a discharge permit and a management plan that controls the cumulative adverse effects of that discharge. I support the principle expressed in Fonterra's appeal. In my opinion, an additional FEMP prepared in accordance with Appendix N would not add value to risk identification or management response. In my opinion, having two management plans for the same land would be inefficient and lead to duplicative, complex and potentially conflicting management obligations.

8.13 While I support the Fonterra appeal in principle, I consider that, rather than providing an exception within Rule 20, a tidier solution would be to allow management plans required by discharge permits to be regarded

as a FEMP provided they address the matters set out in Appendix N. As noted above, I would expect that this would require Fonterra to add some additional matters of detail to its existing WFMP.

8.14 The amendment I propose is to Appendix N Part A as follows (in red font).

Part A – Farm Environment Management Plans

A farm Environment Management Plan (FEMP) can be based on ~~either of~~ any one of the following:

1. *The ~~material~~ default content set out in Part B below; or*

2. *Industry prepared FEMP templates and guideline material, with Southland-specific supplementary ~~material~~ default content added where relevant, so that it includes the material set out in Part B below; or*

3. *A management plan and nutrient budget prepared in accordance with a condition of resource consent to discharge industrial wastewater onto land that is also used for farming activity, provided it includes the material set out in Part B below in relation to each farm receiving industrial wastewater.*

8.15 This version of the provision differs slightly from that included in my will say statement but is consistent with that agreed as part of the Planning JWS.

8.16 In my opinion, the amendments agreed in the Planning JWS are 'neutral' in terms of consistency with the higher order policy direction and objectives and policies of the pSWLRP but should be preferred to the decisions version of the pSWLRP on the basis that they provide a more efficient and effective means of achieving the outcome of identifying and managing the risk of farming activities on water quality.

9. CONCLUSION

9.1 I support the amendments to Policy 16, Rules 20A and 35A and Appendix N as set out in the Planning JWS.

9.2 In addition, I propose:

(a) A minor grammatical change to Policy 16 1 (b) to delete the word ‘for’ and beginning sub clause (i) with ‘minimise’ to correct the syntax.

(b) The inclusion of maps of “*catchments in need for improvement*” as proposed by Dr Depree. These should be included in the pSWLRP as Schedule X and require minor amendment to Appendix N to ensure the action required on farm is linked to the reason a waterbody is in need of improvement; and

(c) The inclusion of a minor amendment to clause (6)(b) Part B in Appendix N to ensure that it is clear that in catchments mapped as “in need of improvement in aquatic ecosystem health”, farms will need to focus on both nutrient (N and P) losses and sediment as well as mitigations that improve habitat quality.

9.3 I also consider that clarity is required about how the requirement for FEMPs is to be staged to acknowledge that not every farm in Southland over 20ha will likely be able to have a certified FEMP in place by the date on which Rules 20 and 20A of the pSWLRP become operative. I will return to this point in my evidence in relation to the dairy interests’ section 274 matters.

Gerard Matthew Willis
20 December 2021

ATTACHMENT 1 – RELEVANT PLANNING FRAMEWORK

The instruments relevant to the matters addressed in this evidence that are recognised the RMA are identified below.

I have reviewed all these instruments in preparing this evidence. I do not repeat here all the individual provisions of these instruments but I do set out those provisions I consider to be particularly relevant to the issues addressed by this evidence.

A. Instruments to be given effect to

1. <u>The NPSFM 2020</u>

- Objective

  (1) The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:
  - (a) first, the health and well-being of water bodies and freshwater ecosystems
  - (b) second, the health needs of people (such as drinking water)
  - (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

- Policies

  Policy 1: Freshwater is managed in a way that gives effect to Te Mana o te Wai.

  Policy 2: Tangata whenua are actively involved in freshwater management (including decision-making processes), and Māori freshwater values are identified and provided for

  Policy 3: Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.

  Policy 4: Freshwater is managed as part of New Zealand's integrated response to climate change.

  Policy 5: Freshwater is managed through a National Objectives Framework to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.

  Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.

  Policy 7: The loss of river extent and values is avoided to the extent practicable.

  Policy 8: The significant values of outstanding water bodies are protected.

Policy 9: The habitats of indigenous freshwater species are protected.

Policy 10: The habitat of trout and salmon is protected, insofar as this is consistent with Policy 9.

Policy 11: Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided.

Policy 12: The national target (as set out in Appendix 3) for water quality improvement is achieved.

Policy 13: The condition of water bodies and freshwater ecosystems is systematically monitored over time, and action is taken where freshwater is degraded, and to reverse deteriorating trends.

2. The NZCPS 2010

Policy 21

Where the quality of water in the coastal environment has deteriorated so that it is having a significant adverse effect on ecosystems, natural habitats, or water based recreational activities, or is restricting existing uses, such as aquaculture, shellfish gathering, and cultural activities, give priority to improving that quality by:

(a) identifying such areas of coastal water and water bodies and including them in plans;

(b) including provisions in plans to address improving water quality in the areas

(c) where practicable, restoring water quality to at least a state that can support such activities and ecosystems and natural habitats;
(d) requiring that stock are excluded from the coastal marine area, adjoining intertidal areas and other water bodies and riparian margins in the coastal environment, within a prescribed time frame; and

(e) engaging with tangata whenua to identify areas of coastal waters where they have particular interest, for example in cultural sites, wāhi tapu, other taonga, and values such as mauri, and remedying, or, where remediation is not practicable, mitigating adverse effects on these areas and values.

3. Southland Regional Policy Statement

Objective WQUAL.1 – Water quality goals

Water quality in the region:

(a) safeguards the life-supporting capacity of water and related ecosystems;

(b) safeguards the health of people and communities;

(c) is maintained, or improved in accordance with freshwater objectives formulated under the National Policy Statement for Freshwater Management 2014;

(d) is managed to meet the reasonably foreseeable social, economic and cultural needs of future generations.

Objective WQUAL.2 – Lowland water bodies

Halt the decline, and improve water quality in lowland water bodies and coastal lakes, lagoons, tidal estuaries, salt marshes and coastal wetlands in accordance with freshwater objectives formulated in accordance with the National Policy Statement for Freshwater Management 2014.

Policy WQUAL.1 – Overall management of water quality

(a) Identify values of surface water, groundwater, and water in coastal lakes, lagoons, tidal estuaries, salt marshes and coastal wetlands, and formulate freshwater objectives in accordance with the National Policy Statement for Freshwater Management 2014; and

(b) Manage discharges and land use activities to maintain or improve water quality to ensure freshwater objectives in freshwater management units are met.

Policy WQUAL.2 – All waterbodies

Maintain or improve water quality, having particular regard to the following contaminants:
(a) nitrogen;
(b) phosphorus;
(c) sediment;
(d) microbiological contaminants.

4. <u>The Operative provisions of the proposed Southland Water and Land Regional Plan</u>

Objective 1

Land and water and associated ecosystems are sustainably managed as integrated natural resources, recognising the connectivity between surface water and groundwater, and between freshwater, land and the coast.

Objective 2

The mauri of water provides for te hauora o te taiao (health and mauri of the environment), te hauora o te wai (health and mauri of the waterbody) and te hauora o te tangata (health and mauri of the people).

Objective 4

Tangata whenua values and interests are identified and reflected in the management of freshwater and associated ecosystems

Objective 5

Ngāi Tahu have access to and sustainable customary use of, both commercial and non-commercial, mahinga kai resources, nohoanga, mātaitai and taiāpure.

Objective 6

Water quality in each freshwater body, coastal lagoon and estuary will be:

(a) maintained where the water quality is not degraded; and

(b) improved where the water quality is degraded by human activities.

Objective 13

Provided that:

(a) the quantity, quality and structure of soil resources are not irreversibly degraded through land use activities or discharges to land; and

(b) the health of people and communities is safeguarded from the adverse effects of discharges of contaminants to land and water; and

(c) ecosystems (including indigenous biological diversity and integrity of habitats), are safeguarded,

then land and soils may be used and developed to enable the economic, social and cultural wellbeing of the region

Objective 14

The range and diversity of indigenous ecosystems and habitats within rivers, estuaries, wetlands and lakes, including their margins, and their life-supporting capacity are maintained or enhanced

Objective 15

Taonga species, as set out in Appendix M, and related habitats, are recognised and provided for.

Objective 17

Preserve the natural character values of wetlands, rivers and lakes and their margins, including channel and bed form, rapids, seasonably variable flows and natural habitats, and protect them from inappropriate use and development.

Objective 18

All persons implement environmental practices that optimise efficient resource use, safeguard the life supporting capacity of the region's land and soils, and maintain or improve the quality and quantity of the region's water resources.

Physiographic Policies 4-12

B. Instruments with which the pSWLRP must be prepared in accordance

- The Resource Management (National Environment Standards for Freshwater) Regulations 2020

C. Instruments the pSWLP should also not be inconsistent with

- the Southland Regional Coastal and Air Plans.
- the Water Conservation Order (Mataura River) 1997 and the
- Water Conservation Order (Ōreti River) 2008

D. Instruments to be taken into account

- Te Rūnanga o Ngāi Tahu Freshwater Policy Statement (1999); and
- Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (Te Tangi a Tauria).

E. Instruments to be had regard to

- Southland Sports Fish and Game Management Plan.

ATTACHMENT 2 – PROPOSED AMENDMENTS

Text in red underscored font is used for the amendments (relative to the Decisions version) agreed in the Planning JWS. Text in blue underscored font are my proposed corrections and minor amendments to the Planning JWS version. Text remaining outstanding following planning conferencing is shown in green underscored font.

Note, the numbering used in Policy 16 has been corrected and differs from that shown in the Planning JWS (and from that used in the body of this evidence).

Policy 16

1. ~~Minimising~~ Avoid where practicable, or otherwise remedy or mitigate, any ~~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:

   ~~(a) discouraging the establishment of new dairy farming of cows or new intensive winter grazing in close proximity to Regionally Significant Wetlands and Sensitive Water bodies identified in Appendix A; and~~

   ~~(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; or~~

      ~~(ii) existing water quality is already degraded to the point of being overallocated; or~~

      ~~(iii) water quality does not meet the Appendix E Water Quality Standards or bed sediments do not meet the Appendix C ANZECC sediment guidelines~~

   ~~(c) ensuring that, after 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:~~

      ~~(i) will generally not be granted where freshwater objectives are not being met; and~~

      ~~(ii) where freshwater objectives are being met, will generally not be granted unless the proposed activity (allowing for any offsetting effects) will maintain the overall quality of groundwater and water in lakes, rivers, artificial watercourses, modified watercourses, wetlands, tidal estuaries and salt marshes.~~

   (a) ensuring that ~~for~~ existing farming activities:

(i) minimise nitrogen, phosphorus, sediment or microbial contaminant discharges ~~are minimised~~; and

(ii) reduce adverse effects on water quality where the farming activity occurs within the catchment of a waterbody that requires improvement identified in Schedule X; and

(iii) demonstrate how (i) and (ii) is being or will be achieved through the implementation of Farm Environment Management Plans prepared in accordance with (c) below and in addition

(v) is avoided in close proximity to Regionally Significant Wetlands and Sensitive Water bodies identified in Appendix A; and

(b) ensuring that the establishment of new, or further intensification of existing, dairy farming of cows or intensive winter grazing activities:
(i) does not result in an increase in nitrogen, phosphorus, sediment and microbial contaminant discharges; and
(ii) minimises nitrogen, phosphorus, sediment or microbial contaminant discharges through the implementation of farm plans prepared in accordance with (c) below; and
(iii) reduces nitrogen, phosphorus, sediment or microbial contaminant discharges where it occurs within the catchment of a degraded waterbody identified in Appendix X; and

(c)~~2.~~ requiring all farming activities to~~, including existing activities to~~:
(a) be undertaken in accordance with ~~implement~~ a Farm Environmental Management Plan which:
(i) identifies whether the farming activity is occurring, or would occur, in a catchment which contains a degraded waterbody identified in Schedule X;
(ii) identifies and responds to the contaminant pathways (and variants) for the relevant Physiographic Zones;
(iii) set out how adverse effects on water quality from the discharge of contaminants from farming activities will be minimised or, where the farming activity is occurring in a degraded catchment identified in Schedule X, reduced;
(iv) is certified as meeting all relevant requirements of this plan and regulation under Part 9A of the RMA; and
(iv) is independently audited and reported on;
(b) ~~actively manage~~ avoid where practicable, or otherwise remedy or mitigate, sediment run-off risk from farming and hill country development activities by identifying critical source areas and implementing and maintaining practices including setbacks from water bodies, sediment traps, riparian planting, limits on areas or duration of exposed soils and the prevention of stock entering the beds of surface water bodies; and
(c) ~~manage~~ avoid where practicable, or otherwise remedy or mitigate, collected and diffuse run-off and leaching of nutrients, microbial contaminants and sediment through the identification and management of critical source areas and the contaminant pathways identified for the relevant

Physiographic Zones (and variants) within individual properties.

3. When considering a resource consent application for farming activities, consideration should be given to the following matters:
   (a) whether multiple farming activities (such as cultivation, riparian setbacks, and winter grazing) can be addressed in a single resource consent; and
   (b) granting a consent duration of at least 5 years where doing so is consistent with Policy 40.

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, mātaitai reserve, taiāpure, estuary or the coastal marine area; and
   (2) [5/10] 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

(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

(b) The use of land for intensive winter grazing that does not meet conditions (a)(i)-(vi) of Rule 20A is a restricted discretionary activity provided the following conditions are met:

(i) a Farm Environmental Management Plan is prepared and implemented in accordance with Appendix N; and

(ii) he area used for intensive winter grazing on the property is no greater than the average area used on the property for the five years prior to the application being made;

The Southland Regional Council will restrict its discretion to the following matters:

1. the quality of and compliance with Appendix N and the Farm Environmental Management Plan for the landholding;
2. whether the intensive winter grazing activity is being undertaken in a degraded catchment of a waterbody that requires improvement identified in Schedule X, and if so, the mitigation actions to be implemented to improve water quality; what reductions below existing losses will be required to improve water quality;
3. mitigation actions and good management practices to be undertaken, including those to minimise the discharge of nitrogen, phosphorus, sediment and microbiological contaminants to water from the use of land, taking into account contaminant loss pathways;
4. the potential benefits of the activity to the applicant, the community and the environment;
5. the potential effects of the farming activity on surface and groundwater quality and sources of drinking water;
6. monitoring and reporting undertaken to assess the effectiveness of any mitigation implemented.

(c) The use of land for intensive winter grazing that does not meet conditions of Rule 20A(b) is a non-complying activity.

(d) The use of land for intensive winter grazing that does not meet condition (vii) of Rule 20A(a) is a prohibited activity.

Rule 35A – Feed pads/lots

(a) The use of land for a feed pad/lot is a permitted activity provided the following conditions are met:

(i) ~~if accommodating cattle or deer, each feed pad/lot services no more than 120 adult cattle, or 250 adult deer, or equivalent numbers of young stock at any one time;~~

(ii) animals do not remain on the feed pad/lot for longer than three continuous months;

(iii) the feed pad/lot is not located:

(1) within 50 metres from the nearest sub-surface drain, lake, river ~~(excluding ephemeral rivers),~~ artificial watercourse, modified watercourse, natural wetland, or the coastal marine area ~~or another feed pad/lot on the same landholding~~; or

(2) within a microbial health protection zone of a drinking water supply site identified in Appendix J, or where no such zone is identified, then within 250 metres of the abstraction point of a drinking water supply site identified in Appendix J; or

(3) within 200 metres of a place of general assembly or dwelling not located on the same landholding, or

(4) within 20 metres of the boundary of any other landholding; or

(5) within a critical source area;

(iv) the feed pad/lot is constructed with:

(1) a sealed and impermeable base and any liquid animal effluent or stormwater containing animal effluent discharging from the feed pad/lot is collected in a sealed animal effluent storage system authorised under Rule 32B or Rule 32D; or

(2) a minimum depth of 500 millimetres of wood-based material (bark, sawdust or chip) across the base of the feed pad/lot; and

(v) any material scraped from the feed pad/lot, including solid animal effluent, is collected and if applied to land is applied in accordance with Rule 38; and

(vi) the overland flow of stormwater or surface runoff from surrounding land is prevented from entering the feed pad/lot.

(b) The use of land for a feed pad/lot that does not meet one or more of the conditions of Rule 35A(a) is a discretionary activity.

Appendix N – Farm Environment Management Plan Requirements

A Farm Environmental Management Plan must be:

(1) A Freshwater Farm Plan prepared, implemented and audited in accordance with regulations prepared under Part 9A of the RMA and which apply within the Southland region, plus any additional information or components required by Parts B (3) and (6)(b) as below; or

(2) if Freshwater Farm Plans, under Part 9A of the RMA, are not yet required in the Southland region, a Farm Environmental Management Plan prepared and implemented in accordance with Parts A to C below.

Part A – Farm Environment Management Plans

A farm Environment Management Plan (FEMP) can be based on ~~either of~~ any one of the following:

1. The ~~material~~ default content set out in Part B below; or

2. Industry prepared FEMP templates and guideline material, with Southland-specific supplementary ~~material~~ default content added where relevant, so that it includes the material set out in Part B below; or

3. A management plan and nutrient budget prepared in accordance with a condition of resource consent to discharge industrial wastewater onto land that is also used for farming activity, provided it includes the material set out in Part B below in relation to each farm receiving industrial wastewater.

Part B – Farm Environmental Management Plan Default Content

1. ~~A written FEMP that is:~~
   ~~(a) prepared and retained, identifying the matters set out in clauses 2 to 56 below; and~~
   ~~(b) reviewed at least once every 12 months by the landholding owner or their agent and the outcome of the review documented; and~~
   ~~(c) provided to the Southland Regional Council upon request.~~

2. The FEMP contains the following landholding details:
   (a) physical address; and
   (b) description of the landholding ownership and the owner's contact details; and
   (c) legal description(s) of the landholding; and
   (d) a list of all resource consents held for the landholding and their expiry dates.; and
   (e) the type of farming activities being undertaken on the property, such as "dairy" or "sheep and beef with dairy support".

3. The FEMP contains a map(s) or aerial photograph(s) of the landholding at a scale that clearly shows the locations of:
   (a) the boundaries; and
   (b) the physiographic zones (and variants where applicable) and soil types (or Topoclimate South soil maps); and
   (c) all lakes, rivers, ~~streams~~ (including intermittent rivers), springs, ponds, artificial watercourses, modified watercourses and natural wetlands; and
   (d) all existing and proposed riparian vegetation and fences (or other stock exclusion methods) adjacent to waterbodies; and
   (e) places where stock access or cross water bodies (including bridges, culverts and fords); and
   (f) the location of all known subsurface drainage system(s) and the locations and depths of the drain outlets; and
   (g) all land that may be cultivated and land to be cultivated over the next 12-month period; and
   ~~(h) all land that may be intensively winter grazed and the land to be planted for winter grazing for the next period 1 May to 30 September; and~~
   (h) all critical source areas not already identified above; and
   (i) ~~for~~ land to be cultivated or intensively winter grazed, or break fed on pasture between 1 June and 31 July, ~~shows~~ and the slope of the land and intended setbacks from any lake, river, artificial watercourses, modified watercourse or natural wetland and any other critical source areas; and:
      ~~(i) critical source areas; and~~
      ~~(ii) Intended setbacks from any lake, river (excluding ephemeral or intermittent rivers), artificial watercourses, modified watercourse or natural wetland; and~~
      ~~(iii) land with a slope greater than degrees~~
   (j) any areas of the land within a catchment of a waterbody that requires improvement identified in Schedule X; and
   (k) any heritage site recorded in the relevant district plan, on the New Zealand Heritage List/Rārangi Kōrero or on the New Zealand Archaeological Association website; and
   (l) the presence of taonga species listed in Appendix M within water bodies on the farm (if known); and

(m) other significant values and uses (if known) on nearby land and waters.

4. Nutrient Budget/Nutrient Loss Risk Assessment

For all landholdings over 20ha, the FEMP contains either:

(a) a nutrient budget (which includes nutrient losses to the environment) calculated, using a ~~the latest version of the OVERSEER model in accordance with the latest version of the OVERSEER Best Practice Data Input Standards (or an alternative~~ model ~~nutrient loss assessment tool~~ approved by the Chief Executive of Southland Regional Council); or

(b) a nutrient loss risk assessment undertaken using a nutrient loss risk assessment tool approved by the Chief Executive of Southland Regional Council);

and the Nutrient Budget or Nutrient Loss Risk Assessment is repeated: ~~which is repeated~~:

(~~a~~1) where a material change in land use associated with the farming activity occurs (including a change in crop area, crop rotation length, type of crops grown, stocking rate or stock type) at the end of the year in which the change occurs, and also every three years after the change occurs; and

(~~b~~2) each time the nutrient budget or nutrient loss risk assessment is repeated all the input data used to prepare it shall be reviewed by or on behalf of the landholding owner, for the purposes of ensuring the nutrient budget or nutrient loss risk assessment accurately reflects the farming system. A record of the input data review shall be kept by the landholding owner; and

(3) the nutrient budget or must be prepared by a Certified Nutrient Management Advisor and the nutrient loss risk assessment must be prepared by a suitably qualified person that has been approved as such by the Chief Executive of Southland Regional Council.

5. Objectives of Farm Environmental Management Plans

A description of how each of the following objectives will, where relevant, be met:

(a) Irrigation system designs and installation: To ensure that all new irrigation systems and significant upgrades meet Industry best practice standards;

(b) Irrigation management: To ensure efficient on-farm water use that meets crop demands, including through upgrading existing systems to meet Industry best practice standards, and ensuring that water and contaminant losses to waterbodies are avoided where practicable or otherwise minimised;

(c) Nutrient and soil management: To avoid where practicable, or otherwise minimise, nutrient and sediment losses from farming activities to ground and surface water, to maintain or improve water quality;

(d) Waterways and wetland management: To manage activities within waterways, critical source areas, natural wetlands, and their margins, by avoiding stock damage, and avoiding where practicable, or otherwise minimising inputs of nutrients, sediment and faecal contaminants to ground and surface water.

(e) Collected animal agricultural effluent management: To manage the operation of collected agricultural effluent in accordance with best

industry practice, to ensure contaminants derived from collected agricultural effluent do not cause adverse effects on water quality.

(f) Drainage maintenance: To manage drainage maintenance activities to ensure contaminant losses to water bodies and damage to aquatic habitats are avoided where practicable, or otherwise minimised significant adverse effects on water quality and aquatic habitat.

The FEMP must also identify additional objectives relevant to the farming activities and/or to address environmental risks associated with the land holding and the environment within which it is located.

6. The description for (5) above shall include, for each relevant objective in 5 above:

(a) an identification of the adverse environmental effects, and risks associated with the farming activities on the property, including, consideration of the risks associated with the relevant physiographic zone/s (and variants), and how the identified effects and risks will be managed and mitigated; and

(b) where the farm is located within a catchment of a waterbody that requires improvement identified in Schedule X, the mitigations that will achieve a reduction in the discharge of the contaminants where relevant to the farming activity that trigger the requiring improvement status of the catchment (noting that in catchments of waterbodies where aquatic ecosystem health requires improvement, reductions and mitigation required will address nitrogen, phosphorus and sediment losses and the effect of those losses); and

(c) defined mitigations that clearly set a pathway and timeframe for achievement of the objectives; and

(d) the records to be kept for demonstrating mitigations have been actioned and are achieving the objective; and

(e) identification of any specific mitigations required by a resource consent held for the property.

7. If any Intensive Winter Grazing is occurring on the landholding, the Farm Environmental Management Plan must also include an intensive winter grazing plan that takes into account and responds to the risk pathways for the relevant physiographic zones (and variants).

~~6. Good Management Practices~~

~~The FEMP contains a good management practices section which identifies:~~

~~(a) the good management practices implemented since 3 June 2016; and~~

~~(b) the good management practices which will be undertaken over the coming 12-month period. These must include practices for:~~

~~(i) the reduction of sediment and nutrient losses from critical source areas, particularly those associated with overland flow;~~

~~(ii) cultivation (including practices such as contour ploughing, strip cultivation or direct drilling);~~

~~(iii) the use of land for intensive winter grazing (including those practices specified in Rule 20(a)(iii);~~

~~(iv) riparian areas (including those from which stock are excluded under Rule 70) and the type of riparian vegetation to be planted, how it will be maintained and how weeds will be controlled; and~~

~~(v) minimising of the discharge of contaminants to surface water or groundwater, with particular reference to the contaminant pathways identified for the landholding.~~

~~Examples of general good management practices are provided on the Southland Regional Council, DairyNZ and Beef and Lamb New Zealand websites and in the document titled "Industry-agreed Good Management Practices relating to water quality, Version 2, 18 September 2015".~~

Part C – Farm Environmental Management Plan Certification, Auditing, Review and Amendment

1. Farm Environmental Management Plan Certification
   (a) The FEMP must be certified, prior to implementation on the farm, by a Suitably Qualified Person (SQP) that has been approved as such by the Chief Executive of Southland Regional Council.
   (b) The purpose of FEMP certification is to confirm that the farming activities on the farm will be carried out in a way that will achieve the Objectives in this Appendix and will comply with any resource consent for the property.
   (c) The FEMP must be re-certified, prior to implementation, following any amendments to the FEMP carried out in accordance with Part C(3)(a) of this appendix.
   (d) Within one month of a FEMP being certified, a copy of the certified FEMP must be provided to the Southland Regional Council.

2. Auditing of the certified Farm Environmental Management Plan
   (a) Within 12 months of the landholding's first FEMP being certified, the landholding owner must arrange for an audit of the farming activities' compliance with the certified FEMP. Thereafter, the frequency of auditing will be in accordance with any conditions of consents held for the landholding, or alternatively, where there are no consent or consent conditions requiring auditing, auditing timeframes associated with the audit grade assigned. *Note: Southland Regional Council will provide, on its website, a schedule of the auditing frequency required for FEMP's based on the audit grade assigned to each landholding.*
   (b) The auditor must be a Suitably Qualified Person (SQP) that has been approved as such by the Chief Executive of Southland Regional Council and must not be the same person or from the same organisation that prepared the FEMP.
   (c) The auditor must prepare an audit report that:
      (i) sets out the auditor's findings;
      (ii) stating whether compliance has been achieved and the final compliance grade; and
      (iii) any other recommendations from the auditor.

(d) Within one month, of the final audit report being prepared, the audit report must be provided to the Southland Regional Council by the auditor.

3. Review and Amendment of the Farm Environmental Management Plan

The FEMP must be reviewed, by the landholding owner, or their agent, as follows:

(a) when there is a material change to the nature of the farming activities occurring on the landholding, and where that material change is not provided for within the landholding's certified FEMP; and

(b) at least once every 12 months; and

(c) to respond to the outcome of an audit.

The outcome of the review is to be documented and amendments to the FEMP must be made where Part C(3)(a) applies and in circumstances where the annual review identifies that amendments are required.

ATTACHMENT 3 – WHOLE FARM MANAGEMENT PLAN (EDENDALE)