

**I MUA I TE KOOTI TAIAO  
I ŌTAUTAHI ROHE**

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

**A N D**

**IN THE MATTER** of appeals pursuant to clause 14 of the First  
Schedule to the Act

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

**ROYAL FOREST AND BIRD PROTECTION  
SOCIETY OF NEW ZEALAND**

(ENV-2018-CHC-50)

**Appellants**

**A N D** **SOUTHLAND REGIONAL COUNCIL**

**Respondent**

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**STATEMENT OF EVIDENCE OF CARMEN WENDY TAYLOR  
FOR RAVENSDOWN LIMITED – A SECTION 274 PARTY  
(TOPIC B, TRANCHE 1)**

**4 FEBRUARY 2022**

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## EXECUTIVE SUMMARY

1. Ravensdown Limited (**Ravensdown**) is a section 274 Party to the Royal Forest and Bird Protection Society of New Zealand Incorporated's (**F&B**) and the Southland Fish and Game Council's (**F&G**) appeals on the Proposed Southland Water and Land Plan (**pSWLP**). Ravensdown remains a party to Policy 16, Rules 14 and 20 and Appendix N.
2. I participated in the planning expert conferencing. I agreed with, and continue to agree with, and therefore support, the agreed outcomes of the planning expert conferencing as contained in the 'Expert Conference – Planning – Joint Witness Statement' (**Planning JWS**). I also agreed with the reasoning behind the amended provisions as discussed within my evidence.
3. However, Mr Farrell, F&B and F&G's planning expert, has sought further amendments to provisions beyond those he agreed to during the expert conferencing. As discussed within my evidence, I do not support Mr Farrell's proposed amendments for the reasons overviewed below:
  - 3.1 Mr Farrell has requested that all references to 'waterbodies that require improvement' in Policy 16 (as well as all other relevant provisions of the pSWLP) are amended to refer to 'degraded waterbodies that require improvement'. This amendment is contrary to the agreed position set out in the Planning JWS, nor does it reflect the change of tone discussed and agreed during planning expert conferencing. In addition, in my opinion, the continued reference to waterbodies or water quality that requires improvement is entirely consistent with the outcome sought by Objective 6 of the pSWLP.

3.2 Mr Farrell seeks to retain the concept of 'ephemeral waterbodies' (rather than 'ephemeral rivers') within the pSWLP, with specific restrictions associated with such 'waterbodies'. The amendment sought by Mr Farrell is contrary to the agreed Planning JWS approach and is unnecessary given the definition Resource Management Act 1991 (**RMA**) of a river (i.e., flows continually or intermittently). Mr Farrell's proposed change also retains the confusion that arises from the pSWLP definition of 'ephemeral rivers', which Mr Farrell proposes changing to 'ephemeral waterbodies' (i.e., the definition means that an 'ephemeral waterbody' could be a puddle anywhere in the region, for example, in a car park). I consider that the agreed amendments contained in the Planning JWS whereby 'ephemeral flow paths' are included within the definition of 'critical source area', thus ensuring that the consideration of mitigation and / or management of potential runoff from landscape features and associated flow paths, which are not rivers, arising from farming activities, is a more appropriate approach than that proposed by Mr Farrell.

3.3 I am comfortable with the inclusion of a rule for 'high risk winter grazing on grass' (Rule 20B), as noted by the planners in the Planning JWS. However, I consider that a separate 'high risk winter grazing on grass' definition should be included in the pSWLP, if such a rule is included in the plan. An amendment to the 'intensive winter grazing' (**IWG**) definition to include grazing on grass, as proposed by Mr Farrell, is not appropriate as it would be confusing given the national definition that is already in place for IWG. A possible definition for 'high risk winter

grazing on grass' is provided in **paragraph 43** of my evidence.

- 3.4 In relation to Appendix N (Farm Environment Management Plan) (**FEMP**), Mr Farrell requests the inclusion of a new 'degraded waterbodies' and 'ki uta ki tai and hauora' objective in Part B(5) of the agreed amended appendix. The proposed degraded waterbody objective is not necessary as the FEMP appendix already accommodates the requirements articulated in the proposed objective. Moreover, Mr Farrell's new proposed ki uta ki tai and hauora objective is not framed as an objective. In addition, the specific matters he considers should be added are already incorporated into other components of the appendix and/or rules in the pSWLP. The specific additions contained in Appendix N include: the requirement to identify other significant values or uses (if known) on nearby land and waters (Part B(3)(m)); and, in Part B(5), the requirement to identify additional objectives to address other environmental risks associated with the landholding and the environment within which is located.
4. In accordance with section 32AA of the RMA, and as assessed in **Appendix A** of my evidence, in my opinion, the amended provisions are the most effective and efficient means of achieving the objectives of the pSWLP, compared with the Decisions Versions, or the versions suggested by Mr Farrell.

## INTRODUCTION

5. My full name is Carmen Wendy Taylor.

### Qualifications and Experience

6. I hold the qualifications of Bachelor of Science (Geography) and Masters of Regional and Resource Planning from the University of Otago. I am a full member of the New Zealand Planning Institute.
7. I have over 27 years of professional planning and resource management experience in New Zealand. Since September 2017 I have been employed by Planz Consultants Limited (**Planz**), a planning and resource management consultancy. Prior to joining Planz, I was employed by Golder Associates (NZ) Limited, and before that MWH New Zealand Limited and the Electricity Corporation of New Zealand (**ECNZ**).
8. Throughout my professional experience, I have been involved in complex projects, initially for ECNZ and then for a range of clients, which have required detailed assessments of the implications and interrelationships associated with utilising a range of resources, such as land, water (surface water and groundwater), air and the coastal marine area. These projects have generally involved technical and scientific input, which I have understood and then utilised when assessing the planning implications of projects (both planning policy implications and resource consent requirements), under the RMA.
9. Since 2018 I have been assisting Ravensdown with policy development processes throughout New Zealand. In this role, I have been involved with the pSWLP since the release of the Hearing Panel's decision. This has included the preparation and presentation of Topic A planning evidence to the Court and

participation in relevant Topic B mediation and expert conferencing processes.

### **Code of Conduct**

10. I acknowledge that I have read and am familiar with the Environment Court's Code of Conduct for Expert Witnesses, contained in the Environment Court updated 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**

11. Ravensdown is a section 274 Party to the F&B and the F&G appeals on the pSWLP.
12. In the context of this Topic B, Tranche 1 hearing, Ravensdown remains a party to the following provisions of pSWLP<sup>1</sup>:
  - 12.1 Policy 16 – Farming activities that affect water quality (Topic B5);
  - 12.2 Rule 14 – Discharge of fertiliser (Topic B2);
  - 12.3 Rule 20 – Farming (Topic B5); and
  - 12.4 Appendix N – Farm Environmental Management Plan (Topic B5).
13. As traversed in **paragraphs 17 to 21** of my evidence below, I participated in the planning expert conferencing that took place on 17 to 19 November 2021 and 9 and 10 December 2021. I agreed

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<sup>1</sup> Ravensdown agreed with the amended wording of Policies 15A, 15B and 15C during mediation and therefore they do not wish to seek further amendments to these policies. I note that the tracked changes to Topic B2, as attached to the Planning JWS (signed on 10 December 2021), reflects the mediated amendments to these policies.

with, and still agree with, the outcomes of the expert conferencing in relation to the agreed wording for all of the above provisions. However, Mr Farrell, F&B and F&G's planning expert, in his evidence has sought further amendments to the above provisions beyond those he agreed to during the expert conferencing. Therefore, within the following sections of my evidence, I discuss the above provisions of the pSWLP and outline the reasons that the agreed provisions, as contained in the Planning JWS signed on 10 December 2021, remain, in my opinion, the more effective and efficient means of giving effect to the relevant pSWLP objectives and policies (in comparison to both the Decisions Versions of these provisions and Mr Farrell's proposed amended provisions).

14. Given the above background, my evidence addresses the following:
  - 14.1 To provide context, I discuss the **agreed outcomes of the expert conferencing (paragraphs 17 to 21)**;
  - 14.2 In relation to **Policy 16 (paragraphs 22 to 25), Rule 14 (paragraphs 26 to 36), Rule 20 (paragraphs 37 to 45), and Appendix N (paragraphs 46 to 57), I:**
    - (a) Provide an overview of the provision and how it works;
    - (b) Where relevant, I address the new amendments sought by Mr Farrell;
    - (c) Identify the pSWLP objectives and policies that the provision gives effect to; and
    - (d) Provide a summary, based on the **section 32AA Analysis** contained in **Appendix A** of my evidence, why, in my opinion, the proposed provision, as

contained in the Planning JWS<sup>2</sup>, is more effective and efficient than the decisions version of the proposed provision and the new amendments sought by F&B and F&G.

15. I note that as I continue to agree and support the agreed outcomes of the Planning JWS, and as I am not seeking any further changes to the agreed pSWLP provisions (as contained in the Planning JWS), I have not attached a tracked changes version of the pSWLP provisions to my evidence.
16. In preparing my evidence I have considered the requirements and/or the matters addressed within the following documents:
  - 16.1 Relevant higher order planning documents<sup>3</sup> which include the National Policy Statement for Freshwater Management 2020 (**NPS-FM 2020**), the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (**NES-F**) and the Southland Regional Policy 2017 (**RPS**).
  - 16.2 The four Interim Decisions<sup>4</sup> from the Court in relation to the Topic A provisions of the pSWLP.
  - 16.3 The now operative in part Decisions Version of the pSWLP (dated 1 March 2021).

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<sup>2</sup> Some witnesses, for example Mr Willis, are proposing minor changes to the agreed provisions contained in the Planning JWS (i.e., to improve grammar, sentence structure etc). I am comfortable with these proposed changes where they are minor, rather than being substantive, and where they do not change the intent or aim of the specific provision.

<sup>3</sup> Given the principle of ki uta ki tai that underpins the pSWLP (and as articulated in Objective 1 of the pSWLP), higher order planning documents that establish a resource management framework within the coastal environment and in relation to the region's air resource are also relevant. I consider that key relevant policy drivers in these documents are consistent with those contained in the RPS and the pSWLP.

<sup>4</sup> First to Fourth Interim Decisions which are dated 20 December 2019, 29 June 2020, 23 July 2020 and 6 November 2020 respectively.



- 16.4 The Topic B Overview planning and supplementary evidence (dated 22 and 28 October 2021) prepared by Mr McCallum-Clark.
- 16.5 The Will Say Statements, and associated tracked change provisions, prepared on behalf of:
- (a) F&B and F&G by Mr Farrell and Ms McArthur (dated 5 November 2021);
  - (b) Southland Regional Council (**Council**) (Mr McCallum-Clark, Ms Maciaszek, Dr Burrell, Dr Snelder and Dr Monaghan (dated 11 November 2021));
  - (c) the Dairy Interests (Mr Willis (dated 29 October 2021));
  - (d) Ballance Agri-Nutrients Limited (**Ballance**) (Ms Rushton (dated 29 October 2021)); and
  - (e) Federated Farmers of New Zealand Incorporated (Mr Wilson (dated 4 November 2021)).
- 16.6 The Joint Witness Statements from the farm system expert conferencing (**First Farm System JWS** (dated 22 November 2021)) and the **Second Farm System JWS** (dated 6 December 2021)), the scientist (water quality) expert conferencing (**Science JWS** (dated 26 November 2021)) and the ecologist expert conferencing (**Ecology JWS** (dated 26 November 2021))<sup>5</sup>.

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<sup>5</sup> I also read the four JWS produced in 2019 in relation to: river water quality and ecology (13 May 2019); lakes (13 May 2019); cultural indicators of health (29 November 2019); and, water quality and ecology (22 November 2019). From observing the recent science and ecology expert conferencing, I understand that the findings of the 2019 expert conferencing has been considered and is reflected in the Science and Ecology JWSs.

- 16.7 The following evidence:
- (a) Mr Farrell's planning evidence and Ms McArthur's evidence, dated 20 December 2021, on behalf of F&B and F&G;
  - (b) Planning evidence, dated 20 December 2021, prepared by Ms Davidson, Ms Dines, Ms Kirk, Ms Jordan, Mr Willis and Mr Wilson, as well as related technical evidence where it is referred to within the planning evidence; and
  - (c) Draft evidence, prepared by Ms Wilkes, Ravensdown's Environmental and Policy Manager, which is to be provided to the Court at the same time as my evidence (4 February 2022).

#### **AGREED OUTCOMES OF EXPERT CONFERENCING**

17. I participated in the planning expert conferencing in relation to the provisions that Ravensdown is a party to, namely Policy 16, Rules 14 and 20 and Appendix N. I also participated in the related discussions on 'ephemeral rivers' and the proposed Schedule X (i.e., identified waterbodies that require improvement).
18. I agreed with, and continue to agree with, the agreed outcomes of the planning expert conferencing. I also agreed with the reasoning behind the amended provisions (as I briefly overview below in the following sections of my evidence).
19. I consider that the provisions, as amended during expert conferencing, are consistent with the approach outlined in Ravensdown's closing legal submissions on Topic A<sup>6</sup>.

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<sup>6</sup> Under the heading "Bridging the Gap' between Topics A and B', Ravensdown's closing legal submissions, dated 31 July 2019.

20. The amendments agreed to by all the planning witnesses address outstanding issues raised by the various parties' experts (i.e., planners, scientists, ecologists or the farm system experts<sup>7</sup>) which I agree needed to be addressed in the manner agreed by the planners. The key outstanding issues which are now clearly accommodated within the farming provisions of the pSWLP is the requirement to improve water quality in the catchments identified in Schedule X of the pSWLP and the need to ensure the risks associated with the physiographic zones (and variants) are recognised, managed and mitigated.
21. I also acknowledge (and agree with) the context, as outlined in the Planning JWS's Introduction and Mr McCallum-Clark's Topic B Overview evidence, that underpins the amended pSWLP Topic B provisions. While this contextual framework has been well traversed by others (and therefore does not need to be repeated here), I have provided an overview of the key contextual drivers below:
- 21.1 The fundamental concept (and thus objective) of the NPS-FM 2020 is Te Mana o te Wai which places the health and well-being (the hauora) of water bodies and freshwater ecosystems first. The concept of Te Mana o te Wai puts the mauri and needs of the waterbodies first. Te Mana o te Wai is both an outcome and a process.
- 21.2 Council intends to notify Plan Change Tuatahi in December 2023 following the completion the National Objectives Framework (**NOF**) process, which has commenced, as

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<sup>7</sup> Prior to reconvening for the second session of expert conferencing with the planners (December 2021), I re-read the relevant JWS and noted the outstanding matters that, in my opinion, needed to be discussed, and potentially addressed, by the planners during the reconvened expert conferencing.

required by the NPS-FM 2020. Plan Change Tuatahi is intended to give full effect to the NPS-FM 2020.

- 21.3 The pSWLP, as notified, was not intended to give full effect to the NPS-FM 2014 (as amended in 2017), and nor does it give full effect to the NPS-FM 2020.
- 21.4 The now operative Objectives 1 and 2 of the pSWLP, as articulated in the Interpretation Statement, are fundamental to the pSWLP and provide the foundation for the management of the region's water and land resources. That is, upholding Te Mana o te Wai and ensuring that ki uta ki tai is embodied in all resource management considerations under the pSWLP.
- 21.5 As an interim plan, the pSWLP seeks to halt further decline in water quality, and to improve water quality where it is in need of improvement<sup>8</sup> (i.e., where hauora and thus Te Mana o te Wai is currently not being provided for). The approach to improving water quality and halting decline adopted within pSWLP, consistent with Objective 1, embodies ki uta ki tai in that the connectivity between land, water and the coast is recognised.

#### **POLICY 16 – FARMING ACTIVITIES THAT AFFECT WATER QUALITY**

22. Policy 16, as amended in the Appendix B5 to the Planning JWS, requires the avoidance, where practicable, or otherwise minimisation of adverse environmental effects, including on water quality, from farming activities. This is to be achieved by:
- 22.1 Ensuring existing farming activities: minimise contaminant discharges (nitrogen, phosphorus, sediment and

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<sup>8</sup> As outlined in **paragraph 24** of my evidence, throughout my evidence I refer to waterbodies or water quality that requires improvement.

microbial); reduce adverse water quality effects within waterbody catchments identified in Schedule X; and, demonstrate how these requirements will be achieved through the implementation of FEMPs (Clause (1)(b)).

- 22.2 Ensuring that dairy farming intensification and IWG: does not result in increased contaminant discharges and that such discharges are minimised; contaminant discharges from such activities are to be reduced within waterbody catchments identified in Schedule X; and, avoided in close proximity to the wetlands and waterbodies identified in Appendix A of the pSWLP (Clause (1)(ba)).
- 22.3 Requiring all farming activities to be undertaken in accordance with a certified and audited FEMP, with the FEMP: identifying if the farming occurs in a catchment that requires improvement identified in Schedule X; requiring the identification and response approach to the contaminant pathways for the relevant physiographic zones; and, setting out how adverse water quality effects will be minimised, or reduced, where the farming activity occurs within an identified Schedule X catchment (Clause (1)(c)).
- 22.4 Avoiding, where practicable, and otherwise minimising sediment run-off risks by identifying critical source areas (**CSA**) and implementing actions and maintaining to avoid and manage the risks (Clause (1)(d)).
- 22.5 Avoiding, where practicable, and otherwise minimising contaminant discharges by identifying and managing CSAs and the relevant physiographic zone contaminant pathways (Clause (1)(e)).

- 22.6 Additional processing guidance, including consent duration, is provided in Clause (3) of the policy.
23. In my opinion, the Planning JWS amended Policy 16 gives effects to the following pSWLP objectives and complements the following policies:
- 23.1 The amended policy gives effect to **Objectives 1 and 2** as the policy recognises that farming activities occur within a broader environment and that restrictions should be put in place to manage adverse effects from farming activities, including on the mauri of water.
- 23.2 **Objectives 3 and 13**, as well as **Policy 13**, are also relevant as the policy outlines the context within which farming activities in the region can continue to use the region's land and water resources (i.e., in a manner which ensures the region's land and water resources are safeguarded) to provide for the region's economic, social and cultural well-being.
- 23.3 The restrictions, changes and management requirements that are to be contained in certified and audited FEMP, as well as the inclusion of Schedule X and the specific actions for farming activities that arise from this schedule, give effect to **Objective 6** in terms of the farming activity playing a role in contributing to the improvement of the region's water quality.
- 23.4 The policy also gives effect to **Objective 18** as it aims to implement environmental practices (and actions), through the specific activity restrictions and controls, as well as the implementation of certified and audited FEMPs, in order to improve water quality and safeguard the life supporting capacity of the region's land and soil resources.

- 23.5 In addition, the amended policy now clearly articulates the risk-based physiographic zone policies (**Policies 4 to 12**), as these policies identify that specific farming activities are to be restricted, as well as the need for FEMP to have particular regard to the potential adverse effects on water quality from the contaminant pathways associated with the various physiographic zones.
24. Mr Farrell, in his evidence (paragraph 91(a)), has requested that all references to ‘waterbodies that require improvement’ in Policy 16 (as well as all other relevant provisions of the pSWLP) are amended to refer to ‘degraded waterbodies that require improvement’. The amendment sought by Mr Farrell is contrary to the agreed position set out in the Planning JWS, nor does it reflect the change of tone recommended by Ms Cain in her evidence (paragraph 20 and 21). The ‘change of tone’ in the policy (and throughout the pSWLP) was also discussed during the second planning expert conferencing (held on 9 and 10 December 2021) and all witnesses agreed with the approach recorded in the Planning JWS. In my opinion, the continued reference to waterbodies or water quality that requires improvement is entirely consistent with the outcome sought by Objective 6.
25. Based on the section 32AA Analysis provided in **Appendix A** of my evidence, I consider that the amended Policy 16, as contained in the Planning JWS, is a more effective and efficient means of achieving the pSWLP’s objectives when compared to the Decisions Version and the changes sought by Mr Farrell. This is because the amended policy more clearly articulates the responsibility of all farming activities to minimise contaminant discharges and reduce the adverse effects on water quality within catchments of waterbodies requiring improvement as identified in Schedule X.

The amendments also clarify that FEMP are to be certified and audited.

#### **RULE 14 – DISCHARGE OF FERTILISER**

26. Rule 14(a), as amended in Appendix B2 of the Planning JWS, permits the discharge of fertiliser to land, subject to ensuring that: there is no fertiliser drift into waterbodies (Condition (i)); fertiliser application does not occur when soil moisture exceeds field capacity (Condition (ii)); and, fertiliser is not discharged into specified setbacks or areas of riparian plantings (Conditions (iii) and (iv)). Where the permitted activity rule conditions are not complied with, the discharge of fertiliser becomes a non-complying activity (Rule 14(b)).
27. The only change, from the Decisions Version, now accommodated within Rule 14<sup>9</sup> (as contained in the Planning JWS) is the deletion of the clarification that a river does not include an ‘ephemeral river’. The pSWLP defines an ‘ephemeral river’ as:
- Rivers which only contain flowing or standing water following rainfall events or extended periods of above average rainfall.*
28. The reason for not specifically referring to ‘ephemeral rivers’, or including ‘ephemeral rivers’ as a ‘river’ as requested by F&G in its appeal, is outlined at paragraph 24 of the Planning JWS.
29. I continue to support Rule 14, as contained in the Planning JWS, as the restrictions contained in the rule continue to apply to all rivers,

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<sup>9</sup> F&B, in a memorandum dated 3 November 2021 (which the Court approved on the same day), sought leave to withdraw its appeal on Rule 14. As a result, the only aspect of Rule 14 that remained under appeal related to F&G’s request to include ‘ephemeral and intermittent rivers’, rather than exclude ‘ephemeral rivers’, within Conditions (i) and (iv) of Rule 14(a).



whether they flow continually or intermittently<sup>10</sup> (as provided for by the definition of river contained in section 2 of the Resource Management Act 1991 (**RMA**)). The Planning JWS approach avoids the confusion that arises from the pSWLP definition of ‘ephemeral rivers’ that could in effect apply to a puddle anywhere in the region (for example, in a car park).

30. In addition, the inclusion of ‘ephemeral flow paths’ within the definition of CSA, in my opinion, ensures that the consideration of mitigation and / or management of potential runoff from landscape features and associated flow paths, which are not rivers (i.e., a river is characterised by a river type substrate and / or aquatic vegetation), arising from farming activities, is appropriately provided for (i.e., through specific rules and the FEMP).
31. In my opinion, the amended Rule 14 contained in the Planning JWS gives effects to the following pSWLP objectives and complement the following policies:
- 31.1 This rule gives effect to **Objectives 1 and 2** as the rule places restrictions, through the proposed permitted activity conditions, to ensure that fertiliser is not discharged to water (directly or indirectly). These controls recognise the connectivity of land and water resources and the need to provide for the mauri of water.
- 31.2 **Objectives 3 and 13**, as well as **Policy 13**, are also relevant as the rule permits, subject to conditions, the discharge of fertiliser to land. This activity enables plant growth which in turn underpins farming activities in the region and thus provides for these activities to continue to use the region's

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<sup>10</sup> The pSWLP defines ‘**intermittent river**’ as – *A river which does not contain permanently flowing or standing water and where the bed is predominantly devoid of terrestrial vegetation and comprises sand, gravel, boulders, or similar material or aquatic vegetation.*

land and water resources (i.e., in a manner, given the permitted activity conditions, which ensures the region's land and water resources are safeguarded) to provide for the region's economic, social and cultural well-being.

- 31.3 The permitted activity rule conditions give effect to **Objective 6** in terms of putting in place controls to ensure fertiliser is not discharged, directly or indirectly, into water, thus ensuring that water quality is at least maintained, if not improved in comparison with the previous operative permitted activity rule controls that have been in place (irrespective of status of an area's water quality). For context, the conditions attached to the permitted activity Rule 10(a) of the Regional Water Plan for Southland require: no direct discharge of fertiliser into waterbodies (Condition (i)); the adoption of all practicable measures to minimise fertiliser drift (Condition (ii)); and, application at a rate and volume to minimise leaching of nutrients to groundwater (Condition (iii)).
- 31.4 The rule also gives effect to **Objective 18** as the permitted activity conditions reflect implementation of environmental practices that optimise efficient resource use in a manner that maintains or improves water quality and safeguards the life supporting capacity of the region's land and soil resources.
- 31.5 Other relevant policies include: the physiographic zone policies (**Policies 4 to 12**) that aim to avoid, where practicable, risks to water quality from contaminants; **Policy 14** which identifies that discharges to land are preferred over discharges to water; and, **Policy 33** which aims to prevent the reduction in the function and quality of natural wetlands, including from discharges.

32. Mr Farrell, in his evidence (paragraph 14), states that he no longer agrees with the agreed outcomes contained in the Planning JWS in relation to 'ephemeral rivers'. In Appendix 1 of his evidence, Mr Farrell requests that the definition of 'ephemeral river' is retained and renamed 'ephemeral waterbody' (and the definition of CSA amended to refer to 'ephemeral waterbody' rather than 'ephemeral flow path'). I do not agree with this requested change.
33. I note that Mr Farrell, in Appendix 1 of his evidence, does not request further changes, beyond those contained in the Planning JWS, to Rule 14. However, as the issue of 'ephemeral rivers' is a matter I have addressed within this section of my evidence, I have addressed Mr Farrell's proposal here.
34. The RMA definition of a 'water body' includes water (fresh or geothermal) in a river, lake, stream, pond, wetland or aquifer. In this context, I consider that the concern I have discussed above in **paragraphs 28 and 30** continues under Mr Farrell's approach (if not exacerbated, given that a water body includes other water bodies besides rivers).
35. For the reasons outlined previously in my evidence, I continue to support the approach agreed by the planners, as contained in the Planning JWS, in relation to referring to rivers, ephemeral flow paths and CSAs in relation to farming activities (including the discharge of fertiliser). In my opinion, the approach in relation to this matter, as contained in the Planning JWS, is both understandable to a lay reader of the pSWLP and is logical as it ensures that CSAs (including ephemeral flow paths) are identified and consideration of mitigation and / or management of potential runoff occurs through relevant pSWLP provisions.
36. As assessed in **Appendix A** (Section 32AA Analysis) of my evidence, I consider that the amended rule (which is effectively the same as

the Decisions Version of the rule), as contained in the Planning JWS, is both an effective and efficient means of achieving the objectives of the pSWLP when compared to the version requested by Mr Farrell (if further amendments to this rule are sought by Mr Farrell).

## **RULE 20 – FARMING**

37. Rule 20, as amended in Appendix B5 of the Planning JWS, establishes a regulatory framework for the land use aspects of farming activities within the region, with Rule 20A regulating the land use aspects of IWG.
38. As an overview, the general farming activity rule (Rule 20) provides for farming activities as follows:
  - 38.1 Permits some farming activities, namely, farming on landholdings less than 20ha in area, existing dairy (as at June 2016) that have not intensified and all other farming activities that have prepared, certified, implemented and audited a FEMP in accordance with Appendix N (Rule 20(a)).
  - 38.2 Requires resource consent, as either a restricted discretionary (Rule 20(c)) or non-complying activity (Rule 20(d)), for farming activities that do not comply with specific permitted activity rule conditions or which are not provided for by the restricted discretionary rule.
  - 38.3 Prohibits dairy platforms occurring at an altitude greater than 800m above sea level (**masl**) (Rule 20(e)).
  - 38.4 Under the permitted and restricted discretionary activity rules, all farming activities, unless the landholding is less than 20ha in area, are required to have prepared, certified, implemented and audited a FEMP.

39. The IWG (Rule 20A) provides for IWG as part of farming activities as follows:
- 39.1 Permits IWG subject to Conditions (i) to (vii) of Rule 20A(a). As an overview, the conditions: restrict the extent of IWG on a landholding and the slope of land where IWG can occur; specify setbacks from waterbodies and identified areas of significance to Ngāi Tahu; specify restrictions for IWG within CSA; requires replanting as soon as practicable; requires a grazing plan, that addresses management requirements, to be included in the landholding's FEMP; and, specify that IWG is not to occur at an altitude of 800masl or greater.
- 39.2 Requires resource consent, as either a restricted discretionary (Rule 20A(b)) or non-complying activity (Rule 20A(c)), where the proposed IWG activity does not comply with specific permitted activity rule conditions or where it is not provided for by the restricted discretionary rule.
- 39.3 Prohibits IWG occurring at an altitude greater than 800m above sea level (Rule 20A(d)).
40. Rule 20A retains a regulatory regime for IWG in the region, rather than solely relying on the regulation contained in the NES-F. Having observed the expert conferencing of other experts, and participated in the planning expert conferencing, I am comfortable with the pSWLP retaining a IWG rule for the Southland region (as contained in Rule 20A). In supporting Rule 20A, I acknowledge that some of the proposed conditions are more restrictive than those contained in the NES-F.
41. In addition to the 'general' farming activity and IWG rules, the Planning JWS, at paragraphs 41 to 46, also discussed a potential rule (potential Rule 20B) to regulate 'high risk winter grazing on

grass' where, as I understand it, such grazing has the potential to remove vegetation cover and expose soil thus increasing the risk of sediment run-off (and any associated contaminants). I am comfortable with the inclusion of such a rule if it is considered that the risks associated with this activity in the region do exist.

42. However, if proposed Rule 20B is included in the pSWLP (or something similar), an appropriate definition for 'high-risk winter grazing on pasture' will need to be included in the pSWLP. It also is important that the definition is separate from that of IWG, as IWG is defined at the national level (in the NES-F) and as such is distinctly different from 'high risk winter grazing on pasture' (i.e., it does not entail the cultivation of a fodder crop). On this basis, I disagree with the suggestion of Mr Farrell (paragraphs 92 to 96 and Appendix 1) to include an IWG definition that includes grazing on pasture (as well as fodder crops).

43. A potential definition could be:

***High risk winter grazing on pasture** - means intensively grazing livestock on pasture, in the period that begins on 1 May and ends with the close of 30 September of the same year, such that vegetation cover would be totally removed and the soil exposed over more than 50% of the paddock being grazed.*

44. In my opinion, the amended farming activities, IWG and potential 'high risk winter grazing on pasture' rules set out in the Planning JWS, give effect to the amended **Policy 16**, as discussed above (**paragraph 23**), and therefore also gives effect to the objectives and policies discussed above in relation to Policy 16.

45. As assessed in **Appendix A** (Section 32AA Analysis) of my evidence, I consider that the amended rule/s (which gives effect to Policy 16),

as contained in the Planning JWS, is both an effective and efficient means of achieving the objectives of the pSWLP.

## **APPENDIX N – FARM ENVIRONMENT MANAGEMENT PLAN REQUIREMENTS**

46. Appendix N, as amended in Appendix B5 of the Planning JWS, outlines the requirements for FEMP, which under Rule 20<sup>11,12</sup>, all farming activities (unless on a landholding of 20ha or less) must prepare and implement and have certified and audited.
47. In recognition that Freshwater Farm Plans (**FFP**), in accordance with Part 9A of the RMA, may be required in the future, the appendix now clearly identifies that under this appendix, either a FFP is required if an Order in Council is in place, and if such an order is not in place, then a FEMP is required in accordance with Parts A to C of the appendix. If a FFP is required, then the appendix also identifies that there are additional information or components that will need to be included in the FFP (i.e., Part B(3) and B(6)(b)).
48. As an overview, a FEMP, prepared in accordance with Parts A to C of Appendix N:
- 48.1 Can be based on the three options identified in Part A of the appendix, but all FEMPs must include the relevant material set out in Part B.
- 48.2 Identify the information listed in Parts B(2) and (3), including, for Part B(3) matters, on maps or aerial photographs. This includes, as provided for under Part

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<sup>11</sup> Other rules also refer to the need to have prepare, certify, implement and audit a FEMP. However, these other rules relate to specific farming activities, not farming activities as a whole.

<sup>12</sup> I acknowledge that Rule 20(d) (non-complying activity) does not contain any conditions and therefore the rule does not specifically identify the requirement for a FEMP. However, amended Policy 16(1)(c) identifies that all farming activities must be undertaken in accordance with a FEMP and therefore this requirement will come into consideration for any resource consent sought under Rule 20(d).

B(3)(m), significant values and uses on nearby land and waters, if known.

48.3 Part B(4) of the FEMP appendix outlines the requirements for the nutrient budget/nutrient loss risk assessment for the landholding.

48.4 Part B(5) contains objectives which the FEMP must, where relevant, describe how the farming activities will achieve the objectives. The specific listed objectives, all of which are directive, relate to:

- (a) irrigation system design, installation and management;
- (b) nutrient and soil management;
- (c) waterways and wetland management;
- (d) collected agricultural effluent management; and,
- (e) drainage management.

48.5 Part B(5) of Appendix N also identifies that additional objectives must be included in the FEMP where relevant to the farming activity and/or to address environment risks associated with the landholding and the broader environment within which it is located.

48.6 Part B(6)(a) to (e) then expands on the requirements of Part B(5) outlining that for each objective the FEMP must address the following:

- (a) The adverse environmental effects and risks (including the risks associated with the relevant physiographic zones) associated with the farming



activity and how identified effects and risks will be managed and mitigated (Part B(6)(a)).

(b) The mitigations that will be adopted to reduce the discharge of contaminants, where relevant to the farming activity, when the farm is located within a Schedule X catchment (Part B(6)(b)).

(c) The mitigations (including any specific mitigations required by a resource consent), including timeframes for achievement of the objectives and the keeping of records to demonstrate that mitigations are being, or have been, actioned (Part B(6)(c) to (e)).

48.7 Part B(7) identifies that where IWG is occurring on a property, a grazing plan is to be included in the FEMP. The grazing plan must take into account and respond to the risk pathways associated with the relevant physiographic zones.

48.8 Part C of Appendix N specifies certification, auditing, review and amendment requirements. The certification and auditing requirements reflect the requirements of Part 9A of the RMA.

49. I am familiar with various regional plan provisions for farm environment plans (**FEP**), nutrient management plans, or similar requirements. I provided an overview of these requirements in my Topic A Supplementary Evidence (dated 10 June 2019), and since mid-2019 I have been involved in a number of regional plan processes, on behalf of Ravensdown, where management plans for farming activities are a component of the regulatory framework

proposed<sup>13</sup>. I also prepared Ravensdown's submission on 'The Freshwater Farm Plan Regulations - Discussion Document' released in July 2021.

50. In my opinion, based on my knowledge of these other existing FEMP (or FEP etc) provisions and processes, the proposed Appendix N approach, while similar to other regional plan requirements, has been able to build on this wider knowledge base, in two particular areas.
51. First, the inclusion of mitigation approaches (not solely good management practices) that respond to the specific objective and policy drivers of the pSWLP, particularly the consideration of the risk pathways associated with the physiographic zones, the requirement to contribute to water quality improvement in Schedule X catchments and the need to identify values and uses beyond the property and to develop objectives (and associated actions) to address environmental risks associated with the environment within which the farming activity is located.
52. Secondly, the FEMP requirements in Appendix N have been tailored, as much as possible given the absence of actual regulations, to reflect the content, certification and auditing requirements outlined in Part 9A of the RMA.
53. The agreed changes to Appendix N, as contained in the Planning JWS, therefore represent, in my opinion, a comprehensive and practicable FEMP that has been able to build on current approaches

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<sup>13</sup> These regional plan processes include: Proposed Plan Change 1 (Waikato and Waipa River Catchment) of the Waikato Regional Plan; Proposed Plan Change 2 (Existing Intensive Farming Land Uses) to Horizons Regional Council's One Plan; Proposed Plan Change 7 to the Canterbury Land and Water Regional Plan; and, Proposed Plan Change 9 (Tūtaekurī, Ahuriri, Ngaruroro and Karamū Catchments) to the Hawke's Bay Regional Resource Management Plan.

and processes used in New Zealand, while also ensuring that FEMP will achieve the objectives, and policies, of the pSWLP.

54. In relation to pSWLP objectives and policies, this amended appendix is directly connected to Rule 20, and therefore also gives effect to **Policy 16** (as well as the physiographic zone policies (**Policies 4 to 12**), and therefore also gives effect to the objectives and policies discussed above in relation to Policy 16 (**paragraphs 22 to 25**).
55. Mr Farrell, in his evidence (paragraphs 90 and 81 as well as Appendix 1) has changed his position from that agreed during the planning expert conferencing (as contained in the Planning JWS) and requests the inclusion of new objectives in Part B(5) of Appendix N. Mr Farrell's proposed new objectives relate to 'degraded waterbodies' and 'ki uta ki tai and hauora'. I consider that it is not appropriate to include the two objectives proposed by Mr Farrell for the following reasons:
- 55.1 The FEMP objectives have been drafted to be directive and to also be clear to lay people (i.e., farmers and others) in the rural community so that it is clear what their obligations are. Given this context, the requested objectives do not take a similar approach and, for lay people in particular, are unclear and confusing.
- 55.2 Mr Farrell's new proposed degraded waterbody objective is not necessary as the FEMP appendix already accommodates the requirements articulated in the proposed objective. This is specifically stated in Part B(6), rather than Part B(5), as Part B(6) outlines the risk assessment process that needs to be carried out, including the identification of mitigation activities to reduce

contaminant discharges that trigger the required improvement, where relevant to the farming activity.

55.3 In relation to Mr Farrell's new proposed ki uta ki tai and hauora objective, this is not framed as an objective. In addition, the specific matters are already incorporated into other components of the appendix and/or rules in the pSWLP, and where this was not the case then additions and amendments were made to the appendix, by the planners during the planning expert conferencing, to address the issues raised in the other expert conferencing JWSs. The specific additions made to Appendix N by the planners to respond to the matters listed under Mr Farrell's proposed additional ki uta ki tai and hauora objectives included: the requirement to identify other significant values or uses (if known) on nearby land and waters (Part B(3)(m)); and, in Part B(5), the requirement to identify additional objectives to address other environmental risks associated with the landholding and the environment within which is located.

56. Mr Farrell, at paragraph 75 of his evidence, suggests that the proposed 'ki uta ki tai and hauora' objective, which was the additional objective suggested within the Science JWS (at Table 2), and subsequently considered by the farm system experts, was 'missed' by the planners when considering amendments to Appendix N. This is not the case. The proposal contained in the Science JWS was specifically considered and discussed during the second planning expert conferencing (held on 9 and 10 December 2021). The planners, as a result of this discussion, agreed that it was more appropriate, from a planning perspective, to address the issues raised in the way agreed in the Planning JWS (as I have

discussed in **paragraph 55.3**), rather than as now suggested by Mr Farrell.

57. As assessed in **Appendix A** (Section 32AA Analysis) of my evidence, I consider that the amended FEMP appendix (which gives effect to both Policy 16 and Rule 20), as contained in the Planning JWS, is both an effective and efficient means of achieving the objectives of the pSWLP when compared to the both the Decisions Version of Rule 14 and the version requested by Mr Farrell.

### **CONCLUSION**

58. I support the amendments to Policy 16, Rules 14, 20 and 20A and Appendix N as set in the Planning JWS.
59. I am also comfortable the inclusion of a rule for 'high risk winter grazing on grass' (Rule 20B), if is considered that the risks of this activity in the region do exist and provided an activity specific separate definition is included in pSWLP.
60. As assessed in **Appendix A** of my evidence, the amended provisions are the most effective and efficient means of achieving the objectives of the pSWLP, compared with the Decisions Versions, or the versions latterly suggested by Mr Farrell.

**DATE: 4 February 2022**



Ms Carmen Taylor

**APPENDIX A – SECTION 32AA ANALYSIS**

<b>pSWLP Provision</b>	<b>s32AA and s32(1) to (4) Requirements</b>	<b>Decisions Version of the pSWLP</b>	<b>Planning JWS Proposed Amendments</b>
<p><b>Policy 16 – Farming activities that affect water quality</b></p>	<p>Benefits and costs of the environmental, economic, social and cultural effects (s32(2))</p>	<p>To minimise adverse environmental effects from farming activities that affect water quality the decisions version (<b>DV</b>) of the policy identifies that restrictions apply to specific high-risk farming activities (dairy farming intensification and IWG). In addition, all farming activities are required to implement a FEMP and to manage potential sediment risks and diffuse discharges through the identification and management of CSA. Clause (3) of the policy provides resource consent decision-making guidance.</p> <p>The DV of the policy seeks to achieve environmental (and associated cultural) benefits, and has social and economic costs given the FEMP and associated management requirements.</p> <p>There are also potential social and economic costs given that the policy restricts the potential ability to realise economic benefits from the land</p>	<p>Consistent with relevant objectives of the pSWLP (Objectives 1, 2, 6, 8, 13 and 18) and the physiographic zone policies (Policies 4 to 12), the amended policy <u>more clearly articulates</u> the need for all farming activities to minimise contaminant discharges and reduce the adverse effects on water quality within catchments of waterbodies requiring improvement as identified in Schedule X. The amendments also clarify that FEMP are to be certified and audited.</p> <p>The amended policy is more effective at articulating the requirement to achieve environmental (and associated cultural) benefits, and neutral in relation to costs and other benefits.</p> <p>In the context of environmental, economic, social and cultural benefits and costs, it is considered</p>

pSWLP Provision	s32AA and s32(1) to (4) Requirements	Decisions Version of the pSWLP	Planning JWS Proposed Amendments
		through additional intensification and unrestricted use of IWG.	that Mr Farrell's requested to amendments to this policy are effectively neutral.
	Efficiency and effectiveness to achieve the objectives (s32(1)(b))	<p>The DV policy places specific restrictions on specific farming activities and it also requires contaminants discharges to be minimised (i.e., including through identification and management).</p> <p>However, the policy does not identify that all farming activities need to implement actions to respond to the physiographic zone contaminant pathways and where water quality needs to be improved within a catchment.</p>	<p>The amended policy more clearly articulates the drivers for improved environmental practices from farming activities (particularly in the Schedule X catchments), particularly in relation to minimising and/or reducing adverse environmental effects on water quality.</p> <p>The amended policy is therefore a more effective, and thus efficient, means of achieving the objectives of the pSWLP.</p> <p>Mr Farrell's proposed amendments to this policy, to refer to 'degraded waterbodies that require improvement', are unnecessary and do not reflect the 'change of tone' agreed to by all the planners during expert conferencing. The planners' agreed amended policy is also entirely consistent with Objective 6. For these reasons, Mr Farrell's proposed amendments are not as</p>

pSWLP Provision	s32AA and s32(1) to (4) Requirements	Decisions Version of the pSWLP	Planning JWS Proposed Amendments
			effective or efficient as the agreed amended policy (as contained in the Planning JWS).
<b>Rule 14 – Discharge of fertiliser</b>	Benefits and costs of the environmental, economic, social and cultural effects (s32(2))	<p>The DV of this rule, where relevant to the matters still under appeal, requires that there is no direct discharge of fertiliser into rivers or within 3m of the bed of a river where there is no riparian planting and otherwise restricts the discharge of fertiliser within riparian plantings. The DV rule specifically clarifies that a river does not include an ‘ephemeral river’ (as defined in the pSWLP).</p> <p>The DV rule seeks to provide for environmental benefits by ensuring that fertiliser is not discharged directly or indirectly into waterbodies. There are also economic and social benefits associated with the ability for people to continue to apply fertiliser to land, in a responsible manner, to support plant growth.</p>	<p>The amended rule removes the specific reference to the ‘... rivers (excluding ephemeral rivers) ...’ from Conditions (i) and (iv) of Rule 14(a).</p> <p>As the amended rule is effectively the same as the DV rule, the amended rule is neutral in relation to environmental, economic, social and cultural benefits and costs.</p> <p>If Mr Farrell is requesting that references to ‘rivers’ in this rule (and other pSWLP provisions) include his proposed amended definition of ‘ephemeral waterbodies’, and if the amended rule was workable (which it is considered it is not), then it is likely that there would be significant economic and social costs when compared to the agreed amended rule.</p>



pSWLP Provision	s32AA and s32(1) to (4) Requirements	Decisions Version of the pSWLP	Planning JWS Proposed Amendments
	<p>Efficiency and effectiveness to achieve the objectives (s32(1)(b))</p>	<p>The amended rule is effectively the same as the DV rule. Therefore, based on the overview provided in <b>paragraph 31</b> of my evidence, it is considered that the rule is effective and efficient at achieving the objectives of the pSWLP.</p> <p>If Mr Farrell is requesting that references to ‘rivers’ in this rule (and other pSWLP provisions) include his proposed amended definition of ‘ephemeral waterbodies’, that will create confusion and is not understandable or logical. Therefore, the proposed amendment, if being sought, is not effective or efficient at achieving the objectives of the pSWLP.</p>	
<p><b>Rule 20 - Farming</b></p>	<p>Benefits and costs of the environmental, economic, social and cultural effects (s32(2))</p>	<p>The DV rule, consistent with the DV Policy 16, puts in place regulation to manage farming activities in order to minimise adverse effect on water quality. This includes placing restrictions on high-risk farming activities (dairy farming intensification and on land above 800masl and IWG) and/or requiring resource consents to be sought, and requiring all farming activities to operate in accordance with a FEMP.</p> <p>Similar to the DV of Policy 16, the DV of the rule will achieve environmental (and associated cultural) benefits, and has social and economic costs given the FEMP and associated</p>	<p>The amended rules (Rule 20, 20A and potentially 20B) give effect to the amended Policy 16 (as assessed above).</p> <p>The amended rules are therefore more effective at articulating the requirement to achieve environmental (and associated cultural) benefits, and neutral in relation to costs and other benefits.</p>

pSWLP Provision	s32AA and s32(1) to (4) Requirements	Decisions Version of the pSWLP	Planning JWS Proposed Amendments
		management requirements. There are also potential social and economic costs given that the rule restricts the potential ability to realise economic benefits from the land through additional intensification and unrestricted use of IWG.	
	Efficiency and effectiveness to achieve the objectives (s32(1)(b))	The DV rule establishes a regulatory framework that is consistent with the DV of Policy 16. However, it is not efficient or effective at achieving the now operative objectives of the pSWLP.	The amended rules (Rules 20, 20A and potentially 20B) give effect to the amended Policy 16 (as assessed above).  The amended Rule 20A has also deleted conditions attached to the permitted activity rule that were not related to potential adverse effects associated with IWG. These amendments also ensure that Rule 20A is more effective and efficient means of achieving the objectives of the pSWLP.
	Justification for greater restriction where a national environmental	The DV and Planning JWS both place greater restrictions on IWG beyond those contained in the NES-F. It is considered that the greater restrictions (subject to the resolution of some of the restrictions being sought by other parties) to give effect of the relevant water quality objectives of the pSWLP	

pSWLP Provision	s32AA and s32(1) to (4) Requirements	Decisions Version of the pSWLP	Planning JWS Proposed Amendments
	standard applies (s32(4))	(Objectives 1, 2, 6, 8 and 18), as well as the physiographic zone policies (Policies 4 to 12) and Policy 16.	
<b>Appendix N – Farm Environmental Management Plan</b>	Benefits and costs of the environmental, economic, social and cultural effects (s32(2))	<p>The DV appendix, consistent with the DV Policy 16 and DV Rule 20, outlines the information requirements that must be included in a FEMP, which, under the DV of Rule, all farming activities must prepare and implement.</p> <p>Similar to the DV of Policy 16 and DV of Rule 20, the DV of the appendix will contribute to the achievement of environmental (and associated cultural) benefits, and has social and economic costs given the FEMP and associated management and mitigation requirements.</p>	<p>The amended appendix gives effect to the amended Policy 16 and Rule 20 (as assessed above). The amended appendix also clearly identifies the objectives for environmental management, including the need to address the risks associated with relevant physiographic zones and to contribute the improvement of water quality if the property is located within a Schedule X catchment.</p> <p>The amended appendix is therefore more effective at articulating the requirement to achieve environmental (and associated cultural) benefits, and neutral in relation to costs and other benefits.</p> <p>The agreed amended appendix already accommodate the relevant matters contained in Mr Farrell’s proposed amendments to this appendix, but in a more direct and clear manner.</p>

pSWLP Provision	s32AA and s32(1) to (4) Requirements	Decisions Version of the pSWLP	Planning JWS Proposed Amendments
			<p>Therefore, Mr Farrell’s proposed amendments are not as effective as the agreed amended appendix at articulating the requirement to achieve environmental (and associated cultural) benefits. In addition, given the lack of clarity, there are potential additional social costs associated with Mr Farrell’s proposed amendments in comparison to the agreed amendments to the appendix.</p>
	<p>Efficiency and effectiveness to achieve the objectives (s32(1)(b))</p>	<p>The DV appendix is not effective or efficient at achieving the objectives of pSWLP, as it does not identify all matters that should be included in a FEMP as sought through the objectives of the pSWLP.</p>	<p>The amended appendix gives effect to the amended Policy 16 and Rule 20 (as assessed above) and is therefore more effective and efficient means of achieving the objectives of the pSWLP.</p> <p>Mr Farrell’s requested amendments to this appendix are unclear, confusing and unnecessary, and therefore are not as effective or efficient, in comparison to the agreed amended appendix, at achieving the objectives of the pSWLP.</p>