

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

**UNDER** the Resource Management Act 1991

**IN THE MATTER** of appeals under Clause 14 of the First Schedule of the Act

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

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

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

*(Continued next page)*

---

**SUPPLEMENTARY STATEMENT OF EVIDENCE OF MATTHEW  
MCCALLUM-CLARK ON BEHALF OF SOUTHLAND REGIONAL COUNCIL**

**PLANNING**

**13 May 2022**

---

Judicial Officer: Judge Borthwick

---

Respondent's Solicitor  
PO Box 4341 CHRISTCHURCH 8140  
DX WX11179  
Tel +64 3 379 7622  
Fax +64 379 2467

**WYNNWILLIAMS**

Solicitor: P A C Maw  
(philip.maw@wynnwilliams.co.nz)

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

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

**GORE DISTRICT COUNCIL, SOUTHLAND DISTRICT  
COUNCIL & INVERCARGILL CITY 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**  
(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, KODANSHA  
TREEFARM NEW ZEALAND LIMITED, SOUTHLAND  
PLANTATION FOREST COMPANY OF NEW ZEALAND**  
(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**

**Introduction, qualifications and experience**

1. My name is Matthew Eaton Arthur McCallum-Clark. My qualifications and experience are set out in full in my statement of evidence dated 22 October 2021.
2. This statement of evidence responds to the Court's directions at paragraph 13 of the Minute dated 2 May 2022 for the Southland Regional Council (**Council**) to file supplementary evidence (and legal submissions as appropriate):
  - (i) *explaining the Regional Council's FEMP certification and auditing process;*
  - (ii) *addressing what, in its view, would constitute a breach of the farming activity rules (Rules 20, 20A, 20B, 70 and 76);*
  - (iii) *related to (ii) above, advising whether a failure to implement a 'mitigation' within a timeframe specified in the FEMP constitutes non-compliance with the rules. Secondly, is a non-compliance with the timeframe specified in a FEMP a matter able to be cured on a review and amendment of an FEMP pursuant to pSWLP, Appendix N, clause 7(3)?*
  - (iv) *comparing farm plan regimes in the Canterbury Land and Water Regional Plan with Southland Water and Land Plan proposed FEMP framework;*
- (b) *... identifying overlapping pSWLP and NES-F provisions;*
3. As a part of the response on the last item, I have also set out the changes that have occurred over time, including in May 2022, to the Intensive Winter Grazing regulations in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (**NES-F**).

**Code of conduct**

4. I confirm that I have read the Code of Conduct for expert witnesses as contained in the Environment Court Practice Note 2014. I have complied with the Code of Conduct when preparing my written statement of evidence and will do so when I give oral evidence.

5. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. The reasons for the opinions expressed are also set out in my evidence.
6. Other than where I state I am relying on the evidence of another person, my evidence is 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.

**The Regional Council's Farm Environmental Management Plan (FEMP) certification and auditing process**

7. I have been advised by Council staff that at present there is no certification and auditing process in place, as no plan rules require that process to be undertaken and the Freshwater Farm Plan framework is not yet in place.
8. By way of background, approximately 1000 Farm Plans have been developed across Southland over the last decade. A template was developed and farmers have been assisted to prepare and implement these Plans by Council staff. Informal follow-ups by Council staff provide further support to farmers with Plans in place, to both advance those Plans and ascertain indicative levels of implementation. These experiences provide a good basis for Council's understanding of the implications of FEMPs and the Freshwater Farm Planning process.
9. I have also been informed that work towards the certification and auditing process is underway, with a view to it being available when any relevant rules and Appendix of the proposed Southland Water and Land Plan (**pSWLP**) may become operative or the Freshwater Farm Plan process is promulgated.
10. Council has identified a number of workstreams needing to be advanced so that the future FEMP process will function. These include:
  - a. Design of FEMP framework and supporting guidance – including changes to templates, guidance and explanatory material to assist in the development of a FEMP.
  - b. Information availability for catchment context – including drawing from environmental state, landscape/physiographic zone

information, soil maps and other sources needed to prepare FEMPs.

- c. Certification and auditing framework & process – including decisions and process for assessing and approving certifiers and auditors.
  - d. Revision of internal systems and improved information storing.
11. Council has advised that they have further explored and begun working on the components of (c) above, including setting up an internal working group tasked with:
- a. Designing and mapping the process for certification and auditing.
  - b. Defining and documenting the roles of each party (certifier, auditor, Council compliance team) within the process.
  - c. Identifying who and how those roles will be filled and the process for authorising and assigning those individuals e.g. the auditor role.
  - d. Defining the actions to be taken at each step in the process and subsequent actions as a consequence.
  - e. Identifying and producing the material needed to supplement or be included in the FEMP manual.
  - f. Identifying areas of practice that require training for external and internal personnel.
12. For many of these aspects, there is cross-over with what other regional councils are doing, and information sharing is underway. Further, there are obvious overlaps with the Ministry for the Environment's Freshwater Farm Plan process which may also be promulgated in the near future. With respect to that process, Council staff advised that during the Ministry's consultation period on the development of the FFP process, Council began to closely consider the implications, including certification, auditing, the role of tangata whenua, assurance programmes, risk assessments, identification of catchment context and the Council's role in these elements.

13. Since this time, the Council has been a part of a Ministry for the Environment working group and is involved with a Freshwater Farm Plan Pilot group. This Pilot group involves agencies such as the Ministry for the Environment, Ministry for Primary Industries and other regional councils and aims to pilot the planning, preparation, testing and implementation of Freshwater Farm Plans in targeted catchments.
14. Overall, Council staff have advised me that they are confident that the Council will be in a position to administer either or both of the revised FEMP and Freshwater Farm Plan frameworks when they are made operative.
15. As an additional point, when considering the questions of the Court, and after liaising with some of the planners for other parties, it is also clear that the auditing section of Appendix N attached to the Planning JWS made some assumptions about how the audit framework would work, when referring to 'audit grades'. When the Council develops its audit process, it may not assign a 'grade', and may use a 'pass' or 'fail' framework – this is yet to be determined. Therefore, I<sup>1</sup> suggest some amendments to the auditing provisions to address this (my amendments are shown in red tracking):

#### ***Appendix N***

...

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

...

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 to be undertaken within 12 months of the landholding's FEMP first being certified.~~  
~~Thereafter, the frequency of auditing will be in accordance with any~~

---

<sup>1</sup> Based on suggestions from the planners (Ms Taylor, Mr Willis, Mr Wilson, Ms Foster and Ms Ruston) for the primary sector parties.

conditions of consents held for the landholding, or alternatively, where there are no consent or consent conditions requiring auditing every two years after receipt of the previous audit report, unless the Chief Executive of the Southland Regional Council, having regard to the Objectives of the Southland Water and Land Plan, specifies in writing, a shorter or longer period between 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) *states stating whether compliance has been achieved ~~and the final compliance grade~~; and*
  - (iii) *sets out 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.*

### **What constitutes a breach in relation to a Farm Environmental Management Plan**

16. At the expert conferencing of planners, amendments were made to the rules that reference FEMPs to reflect the certification and auditing process. The amended wording applies in a number of rules, such as Rule 20, and reads:<sup>2</sup>

*... a Farm Environmental Management Plan is prepared, certified, and implemented and audited in accordance with Appendix N.*

---

<sup>2</sup> There are some unintended variations of this wording.



17. I recall the planners were focussed on including 'certified' and 'audited' and did not pay particular attention to 'implemented', what that may mean in practice, or the Court's question of what would constitute a breach of the FEMP provisions.
18. While the interpretation of 'implemented' and how this provision operates is essentially a legal question, on reflection these rules could be made more certain and, in my opinion, clearer as to what might constitute a breach of the FEMP provisions. In this, I have been assisted by communications with the planners for the primary sector parties,<sup>3</sup> who have made suggestions as to revised wording for this part of the relevant rules.
19. Compliance with the permitted activity condition would appear to be based on the "implemented" part of the condition, and it is that part that is unclear in the Planning JWS version. That lack of clarity relates to both what is to be 'implemented' and the timeframe to do so. In my opinion, the effectiveness of the FEMP comes through undertaking the practices, actions and mitigations described in it, within the timeframes that are set out in the FEMP.
20. On this basis, the condition could be broken into two parts with greater specificity in relation to 'implemented'. I recommend the following changes, wherever this condition occurs (red tracked changes show changes from the Planning JWS version):

*... a Farm Environmental Management Plan is:*

*(A) prepared, certified, ~~and implemented~~ and audited in accordance with Appendix N; and*

*(B) implemented by the landholder completing the practices, actions, and mitigations specified in the Farm Environmental Management Plan in accordance with the timeframes set out in that Plan.*

21. As a consequence, there may also be a need to improve the wording in Appendix N to reinforce the need for the specification of timeframes within which each action and mitigation is to be completed.

---

<sup>3</sup> Ms Taylor, Mr Willis, Mr Wilson, Ms Foster and Ms Ruston.

## **Farm plan regimes in the Canterbury Land and Water Regional Plan and the Southland Water and Land Plan**

22. The Court has directed the Council to file supplementary evidence and legal submissions (as appropriate) comparing farm plan regimes in the Canterbury Land and Water Regional Plan (**CLWRP**) with the pSWLP FEMP framework.
23. While I have endeavoured to provide a comparison, this evidence inherently focusses to a greater extent on the CLWRP, as evidence on the CLWRP has not previously been put before the Court, whereas the evidence on the pSWLP is extensive.

### ***General overview of the CLWRP and comparison with the pSWLP***

24. The CLWRP manages land and freshwater resources across Canterbury. It does so at two spatial scales, being through region-wide and sub-region sections. The sub-region sections apply to specific areas of Canterbury, generally at a catchment or part of catchment scale. Although pre-dating the requirement for Freshwater Management Units (**FMUs**), the sub-region concept is similar to identifying and managing FMUs.
25. The region-wide provisions manage all activities affecting land and freshwater. The region-wide provisions include objectives, strategic policies, activity policies and rules.
26. The sub-region provisions have mostly been developed through separate plan change processes, and build on, modify, or supersede the region-wide provisions, in order to achieve specific sub-region outcomes. The sub-region provisions are largely focused on specific activities that require tailored management within the relevant catchment, including rural land uses.
27. Where they are in place, sub-region provisions generally prevail over the equivalent region-wide provisions.
28. The Objectives and Region-wide Policies 4.1-4.6 form a default set of 'freshwater objectives', as required by the National Policy Statement for

Freshwater Management 2014.<sup>4</sup> The remaining policies and rules in both the region-wide and sub-region sections give effect to the Objectives of the Plan and those freshwater objectives.

29. Tables 1a and 1b of the CLWRP set fresh water outcomes for all lakes, rivers and aquifers, where outcomes are not set in the relevant sub-region sections. The sub-region sections that have been developed include more specific freshwater outcomes for rivers and lakes in the sub-region. While these provisions will need to be revised to give effect to the NPSFM 2020, the CLWRP was developed to fully give effect to the NPSFM in place at the time, including the setting of limits and targets and associated methods to achieve them (including Farm Environment Plans (**FEP**)).
30. In comparison, the pSWLP has a single set of objectives, policies and rules that apply to the whole of the Southland Region. While the pSWLP identifies FMUs, it is made clear<sup>5</sup> that the other steps required to give effect to the NPSFM will need to be incorporated by way of a future plan change.

#### ***CLWRP farming rules***

31. In a similar manner to the pSWLP, the CLWRP manages farming activities through land use rules. Discharges associated with farming activities managed under land use rules are generally permitted.

#### *Region wide provisions*

32. At the region-wide level, consent requirements are dependent on the nutrient allocation zone. The nutrient allocation zones are generally a reflection of where different catchments are placed in relation to meeting the Table 1a and 1b water quality limits. In summary:
  - a. Red and lake zones require water quality to be improved, with no increases in losses allowed.<sup>6</sup>

---

<sup>4</sup> Policy A1

<sup>5</sup> For example in Policy 47 of the pSWLP.

<sup>6</sup> Policy 4.37

- b. Orange zones require water quality to be maintained, with no increases in losses allowed.<sup>7</sup>
- c. Green and light blue zones require water quality to be maintained, with some increases in farm losses enabled.<sup>8</sup>

*CLWRP permitted activity provisions*

- 33. The farming land use provisions generally permit small scale and low intensity farming activities.
- 34. All farming activities on properties less than 10 ha are permitted, with no further conditions to be met. For larger properties, farming activities are permitted if they meet several conditions, as described below:
  - a. Property is registered with the Farm Portal, which records basic farm system information;
  - b. No more than 50 ha of the property is irrigated;
  - c. Winter grazing area limits of:
    - i. 10 ha where the property is less than 100 ha in area;
    - ii. 10% of the area of the property, for any property between 100 ha and 1000 ha in area; or
    - iii. 100 ha, for any property greater than 1000 ha in area;and
  - d. A Schedule 7A management plan must be prepared and implemented.
- 35. The Schedule 7A management plans are a simple framework, much less extensive than a normal farm management plan. Schedule 7A is attached as Appendix 1. The information that must be included in a management plan can be summarised as:
  - a. Property details, including physical address, legal description, farm identifier, ownership and contact person.

---

<sup>7</sup> Policy 4.38

<sup>8</sup> Policy 4.38A

- b. Maps showing property boundaries, waterways, riparian vegetation and fencing, stock crossing points, significant indigenous biodiversity, and critical source areas for phosphorus loss.
  - c. Description of on farm actions undertaken in the previous 12 months, and to be undertaken in the next 12 months, to implement the listed 'good management' practices. The practices include, but are not limited to:
    - i. Water, effluent and fertiliser is applied at a rate that does not exceed the water holding capacity of the soil or the agronomic requirements of the crop.
    - ii. Irrigation systems, effluent application systems, fertigation systems and fertiliser or organic manure systems are assessed annually, and maintained and operated to apply irrigation water, waste or nutrients efficiently.
    - iii. Silage pits, refuse pits and offal pits are sited, designed and managed to avoid the discharge of leachate into surface waterbodies.
36. Management plans are required to be updated at least every 12 months and be provided to the Council on request. They do not need to be prepared by a suitably qualified person, nor are they required to be certified or audited.

*Activities requiring a resource consent*

37. Where activities do not meet the CLWRP permitted activity standards, a resource consent is required. The rules use a highly prescribed framework, with strict entry conditions, and clear matters of control or discretion.
38. All rules are based on comparing the current operation to that which occurred over the 2009-2013 'baseline period', with the following expectations:
- a. In lake and red zones, nutrient losses must decrease.

- b. In orange zones nutrient losses must decrease, although several exceptions are provided.
  - c. In green and light blue zones, nutrient losses may increase.
39. All farming land use activities subject to a resource consent require a FEP to be provided at lodgement of the application for consent,<sup>9</sup> which is prepared in accordance with Schedule 7. Schedule 7 is attached as Appendix 2.
40. The FEP requirements in Schedule 7 are substantial and require much more detail than Schedule 7A management plans. FEPs have a stronger focus on assessing adverse environmental effects and risks associated with the farming activity, and how they will be managed. Schedule 7 includes standard Management Areas,<sup>10</sup> objectives, and targets, with the FEP to describe how the objectives and targets will be met on the property, including any specific on-farm actions.
41. The CLWRP framework, where outcomes, limits, and targets are set at a default level for the whole region, paired with the steady roll-out of sub-region provisions, in my opinion enables a more focussed approach with respect to resource consents and FEP expectations.
42. FEPs under the CLWRP may be prepared by anyone, regardless of qualifications. Where FEPs have been prepared or reviewed by an Accredited Farm Consultant<sup>11</sup> prior to consent lodgement, they will have a less stringent activity status than other FEPs. This is on the basis that an Accredited Consultant is known to have the key competencies required to complete a FEP, while a lay person's skills and knowledge are not known.

---

<sup>9</sup> With the exception of non-complying rules 5.51, 5.56A and 5.59

<sup>10</sup> Such as "Irrigation", "Nutrients" and "Cultivation".

<sup>11</sup> *Accredited Farm Consultant means a person who holds a Certificate of Completion in Advanced Sustainable Nutrient Management in New Zealand Agriculture from Massey University and who:*

- (a) *has been certified by the New Zealand Institute for Primary Industry Management as meeting the criteria for a 'Certified Dairy Farm System Consultant'; or*
- (b) *is a Certified Nutrient Management Adviser under the Nutrient Manager Adviser Certification Programme Ltd; or*
- (c) *holds any other qualification that has been approved by the Chief Executive of Environment Canterbury as being an equivalent standard with respect to the knowledge and competencies required.*

43. The standard resource consent conditions<sup>12</sup> for farming activities are summarised below, and largely focus on the preparation, implementation, and auditing of the FEP. An example of the current standard conditions relating to FEPs for farming land use consents is attached as Appendix 3.
44. FEP audits are carried out by independent Certified FEP Auditors,<sup>13</sup> with the audit results provided to the Canterbury Regional Council, in order to determine overall consent compliance.

*Sub-region provisions*

45. The development of sub-region sections of the CLWRP has generally prioritised red nutrient allocation zones, where water quality is accepted to be not meeting Table 1a and 1b outcomes. The sub-region sections that have been developed generally identify specific expectations and a timeframe for the improvement of water quality, along with refining the extent and allocation status of the nutrient allocation zones. At the same time, water quantity limits are also reconsidered, along with a range of non-regulatory methods.
46. The same standard condition set is used as the region wide provisions, with additional nutrient reduction details included as required.

---

<sup>12</sup> Sourced from the Canterbury Regional Council, who has also advised that these conditions represent an 'interim solution' to address the deficiencies identified in the Overseer review.

<sup>13</sup> *Certified Farm Environment Plan Auditor means a person who either:*

- (a) *is approved by the Chief Executive of Environment Canterbury as meeting the following criteria and is registered on the Environment Canterbury website as a Certified Farm Environment Plan Auditor or*
- (b) *is an auditor who is operating under an International Standards Organisation accredited audit programme that has been approved by the Chief Executive of Environment Canterbury as including audit criteria equivalent to that set out in Part C of Schedule 7;*

*and*

- 1. *has at least 5 years' professional experience in the management of pastoral, horticulture or arable farm systems; and*
  - (i) *holds a Certificate of Completion in Advanced Sustainable Nutrient Management in New Zealand Agriculture from Massey University; or*
  - (ii) *holds a tertiary qualification in agricultural science or demonstrates an equivalent level of knowledge and experience; and*
- 2. *is a current member of a professional institute relevant to auditing that requires members to subscribe to a code of ethics and has a procedure in place for dealing with complaints made against members; and*
- 3. *demonstrates, to the Chief Executive of Environment Canterbury, proficiency in the auditing of Farm Environment Plans against the matters set out in Part C of Schedule 7.*

47. Schedule 7 includes several additional requirements for specific sub-regions. These include additional mapping requirements and management areas and are shown in the copy of Schedule 7A included in Appendix 3.

### **Summary**

48. Similar to the pSWLP, the CLWRP manages all farming land use activities through either the permitted or resource consent pathways.
49. The permitted activity pathway provides a means for the Canterbury Regional Council to gather information on small scale or low intensity farming activities, and specify some basic minimum actions, without a requirement for a resource consent, professional assistance, or auditing. In comparison, for larger and more intensive farming activities, the farm management plan requirements are managed under a resource consent, and are notably more stringent. This more extensive FEP framework, with auditing, is akin to the FEMP requirements of the pSWLP and Freshwater Farm Plans (as set out in the consultation material released by the government).
50. A difference between the CLWRP and the pSWLP is the requirement for certification, which is not a part of the process in Canterbury. In Canterbury, there appears to be more reliance on the use of templates, incentivising professional assistance through the activity status, and with improvement requirements driven by the first audit. Further, if any additional steps are considered necessary in the particular circumstances, the resource consent framework enables resource consent conditions to require those steps be taken.
51. The more substantial difference between the two plans lies, in my opinion, in their start-points. The CLWRP fulfils the requirements of the NPS-FM it was developed under, and sets outcomes, freshwater objectives, and limits and targets. The pSWLP clearly identifies that those steps are yet to come, including the setting of limits.

### **Identifying overlapping pSWLP and NES-F provisions**

52. There is a high level of overlap between the Essential Freshwater Regulations (NES-F and Stock Exclusion Regulations) and the rules in the pSWLP, particularly where they relate to farming activities. This



section of evidence focusses on their overlap with the farming activities in dispute, as these are subject to the current hearing process.

However, the overlap with other provisions is noted for completeness.

53. The NES-F Regulations are wide-ranging with respect to the pSWLP. This has been identified in the preparation for mediation and it has also been identified that ascertaining and removing duplication and less stringent provisions is not a simple exercise. The Ministry for the Environment summarises their application and intent as to:
- a. protect existing inland and coastal wetlands;
  - b. protect urban and rural streams from in-filling;
  - c. ensure connectivity of fish habitat (fish passage);
  - d. set minimum requirements for feedlots and other stockholding areas;
  - e. improve poor practice intensive winter grazing of forage crops;
  - f. restrict further agricultural intensification until the end of 2024; and
  - g. limit the discharge of synthetic nitrogen fertiliser to land, and require reporting of fertiliser use.
54. While the farming provisions are discussed more fully below, the assessments undertaken by Council show that the provisions that relate to wetland protection affect a wide range of pSWLP provisions, particularly in relation to water take and discharges in proximity of wetlands, structures, earthworks, land drainage and drain maintenance, and vegetation clearance. The activity status and complex conditions and restrictions on discretion in the NES-F make stringency assessments and integration with the pSWLP provisions difficult, if not impossible.
55. As addressed through answers to questions from the Court, I am informed by the Council that it will undertake its obligations with respect to stringency and duplication once the provisions are finalised through the Environment Court appeal process. In the interim, I am advised that the Council is relying on information provision, advice directly to

applicants and liaison with consultants and industry groups to address the current complexity.

### ***NES-F and farming provisions***

56. The land use rules in the pSWLP crossover with the regulations in Part 2 Subparts 2 and 3 of the NES-F. At a general level, the farming rules in the pSWLP manage farming, intensive winter grazing (**IWG**), incidental discharges, and cultivation, along with various other discharges, while Subparts 2 and 3 of the NES-F manage various intensification activities and IWG.
57. The relevant NES-F regulations generally seek to hold activities to those existing at 3 September 2020. Although a pathway is provided for intensification, the pre-conditions on granting consents are very constraining.
58. Table 1 below identifies the crossover between the rules and regulations, and the key areas of similarity and difference between the provisions.

### ***Time constraints in the NES-F provisions***

59. For discretionary activities requiring consent under Part 2, Subparts 2 and 3 of the NES-F, the consent term must end before 1 January 2031.<sup>14</sup>
60. The conversion and intensification provisions in Part 2, Subpart 2 of the NES-F are revoked on 1 January 2025,<sup>15</sup> at which time the consent authority must have notified a freshwater planning instrument to give effect to the NPSFM.<sup>16</sup> In addition, the Subpart 2 regulations do not apply to an activity if the relevant regional council has publicly notified amendments required by s55(2B) of the RMA to give effect to the NPSFM.<sup>17</sup> I understand this to effectively mean that once the Council's

---

<sup>14</sup> Regulations 24(2) and 30(4) of the NES-F, which apply to some forms of intensification and increased areas of IWG.

<sup>15</sup> Regulation 25 of the NES-F

<sup>16</sup> Section 80A(4)(b) of the RMA

<sup>17</sup> Regulation 15(2) of the NES-F.

Freshwater Plan (Plan Change Tuatahi) is notified, the Subpart 2 provisions no longer apply.

61. The additional intensive winter grazing Regulations (29 and 30), which limit permitted intensive winter grazing based on historic grazing, are also revoked on 1 January 2025, meaning they will only be in place from 1 November 2022 to 1 January 2025 (just over two years). As with Subpart 2, the Part 2 Subpart 3 provisions do not apply once the Council's Freshwater Plan is notified.

Table 1 – Overlapping pSWLP farming rules and NES-F provisions.

Rule	Activity managed	Regulation	Activity managed	Discussion
pSWLP Rules		NES-F Regulations		
20	Use of land for farming	16, 17	Use of land and discharge associated with conversion of plantation forestry to pastoral land use.	<ul style="list-style-type: none"> <li>The Rule 20 permitted activity limits have some similarities to the NES-F, with no increase in cow numbers or dairy platform area beyond 2016 limits. It is likely that most activities requiring consent under one document would also require consent under the other.</li> <li>Rule 20 does not address increases in irrigation area or of dairy support land.</li> <li>Regulation 24 sets clear limits on granting consents, likely stronger than the discretionary/non-complying<sup>18</sup> activity Rule 20.</li> <li>The pSWLP permits incidental discharges associated with authorised farming activities, while the NES-F requires a discharge consent for such activities. Essentially, the land use and discharge components are addressed under different rule structures.</li> </ul>
		18, 19	Use of land and discharge associated with conversion of land on farm to dairy farm land.	
		20, 21	Use of land and discharge associated with irrigation of additional dairy farm land. Permitted if area of new activity is no greater than: 10 ha, or 10 ha more than the maximum area of the property that was irrigated in the 12 months to 2 September 2020 Otherwise, discretionary, subject to Regulation 24.	
		22, 23	Use of land and discharge associated with use of additional land on farm as dairy support land. Permitted if area of new activity is no greater than the maximum area of land used for dairy support during the reference period. Otherwise, discretionary, subject to Regulation 24.	
		24	Limits on the grant of resource consent for the activities above. Consent may only be granted if activity will not result in an increase in: Contaminant loads in the catchment, compared to loads at 2 September 2020, or Concentrations of contaminants in freshwater or receiving environment, compared to concentrations at 2 September 2020	
20A	Intensive winter grazing (forage)	26, 27	Use of land and discharge associated with IWG (Forage crops, excluding pasture).	

18

Decisions version has a discretionary status, provisions as agreed between the parties has a non-complying status.

	crops, excluding pasture)	26A	Pugging and ground cover standards that permitted activities must comply with. Both are descriptive rather than prescriptive	All reasonably practicable steps to be taken to minimise adverse effects on freshwater of any pugging.	<ul style="list-style-type: none"> <li>The definition of IWG is largely the same in terms of duration and forage crop.</li> <li>The permitted activity limits are largely similar, including Regulations 26A and 26B. Key differences are land area limits and the option for a permitted pathway under NES-F if a Freshwater Farm Plan is in place.</li> <li>pSWLP does not have a 'reference period' or other limit based on past use of land for IWG.</li> <li>Similar issues as for farming generally relating to rule structure and treatment of land use and discharge components.</li> </ul>
		26B		Vegetation ground cover is established over the whole area of that land as soon as practicable after livestock have finished grazing.	
		29, 30	Temporary additional provisions for Regulations 26 and 27, such that permitted activities must not exceed the maximum area of land used for IWG in the reference period.	<ul style="list-style-type: none"> <li>Regulation 30 sets clear direction for granting consents that exceed the reference period area, with limits as per Regulation 24.</li> </ul>	
20B	High risk winter grazing (fodder or pasture)	No regulations specific to high risk winter grazing of fodder or pasture.			<ul style="list-style-type: none"> <li>No specific crossover between the documents. However, high risk winter grazing may be associated with the use of land as dairy support land (Regulations 22 and 23).</li> </ul>
24	Incidental discharges from farming	16-23 and 26, 27, 29, 30	All land uses related to conversion, intensification or intensive winter grazing include an associated discharge, with discharge consent required where not permitted under the NES-F.	<ul style="list-style-type: none"> <li>As noted above, the rule structure in the pSWLP, in separately dealing with incidental discharges, is different to that of the Regulations.</li> </ul>	

25	Use of land for cultivation	50	<p>Vegetation clearance, earthworks and land disturbance outside, but within 10 m of a wetland for arable and horticultural land use.</p> <p>Permitted where cultivation is for the purpose of land use for arable or horticulture between 1 January 2010 and 2 September 2020, and complies with general wetland conditions in Regulation 55. Non-complying under Regulation 54 if not permitted.</p>	<ul style="list-style-type: none"> <li>• The Regulations are specific to arable and horticulture, and address cultivation near wetlands.</li> <li>• Some uncertainty in interpreting Regulations as to whether other cultivation would result in 'vegetation clearance'.</li> <li>• pSWLP manages all cultivation, regardless of purpose, and requires cultivation to not occur within 5 m of a wetland to be permitted.</li> <li>• pSWLP includes additional controls around slope, elevation and repeat cultivation, which are not managed under the NES-F.</li> </ul>
----	-----------------------------	----	--	--

### ***Stock exclusion regulations***

62. The Stock Exclusion Regulations crossover with Rule 70 in the pSWLP. Both require stock exclusion from waterways and wetlands. The pSWLP provides a resource consent pathway where the Rule 70 standards cannot be met, while the regulations set minimum standards that must be met and a resource consent is not available.
63. The key points of comparison across the documents are:
- a. Both apply to cattle, deer and pigs, with an intensity measure applying to beef cattle and deer requirements in the pSWLP. The pSWLP also applies to sheep in some circumstances, in addition to these stock classes<sup>19</sup>.
  - b. Both use slope as a means to determine where stock exclusion from waterways is required. The pSWLP has three slope categories, while the regulations have two, based on whether the average slope across a land parcel is more or less than 10 degrees.
  - c. The pSWLP variously applies to all water bodies and open drains, or only those that are more than 1 m wide, while the regulations apply to lakes and rivers more than 1 m wide.
  - d. Both set a staged implementation for stock exclusion, based on slope and stock type. The pSWLP requires compliance with stock exclusion requirements sooner, unless consent is sought.
  - e. The regulations prescribe a minimum setback of 3 m for all exclusion measures (eg fences) established after the regulations took effect, while the pSWLP does not prescribe a setback distance.
64. While there are some differences in content, it is likely that outcomes between the rules and regulations will be similar, except that the pSWLP provides earlier implementation times, some management of sheep, and

---

<sup>19</sup> For example, Rules 70(a) and (b)

additional requirements for stock exclusion from smaller waterbodies and artificial drains.

### ***Changes to the IWG regulations***

65. This section describes the various amendments to the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F), as they relate to intensive winter grazing (IWG).
66. The NES-F came into force on 3 September 2020. At that time, the IWG provisions comprised regulations 26 to 31, providing either a permitted or restricted discretionary activity status, with additional temporary standards.
67. Since the NES-F took effect, three amendments have been made to the NES-F, and all have included changes to the IWG regulations. These amendments are referred to as the 2020,<sup>20</sup> 2021,<sup>21</sup> and 2022<sup>22</sup> amendments. The nature of the amendments as they relate to IWG, and any key changes are described below.

#### *Regulation 2*

68. Regulation 2 describes when the regulations, including the IWG subpart, come into force. The IWG regulations were originally scheduled to come into force on 1 May 2021. The 2021 amendments changed the dates, so that both the temporary regulations (28 to 31) and the general regulations (26 and 27) come into force on 1 May 2022. The 2022 amendments further extended the latter to 1 November 2022.

#### *Regulation 26*

69. Regulation 26 provides two permitted activity pathways for IWG. Where the Freshwater Farm Plan avenue is not available or is not used, it places restrictions on the nature of the IWG activity that may occur.

---

<sup>20</sup> Resource Management (National Environmental Standards for Freshwater) Amendment Regulations 2020, 24 August 2020

<sup>21</sup> Resource Management (National Environmental Standards for Freshwater) Amendment Regulations 2021, 19 April 2021

<sup>22</sup> Resource Management (National Environmental Standards for Freshwater) Amendment Regulations 2022, 19 April 2022



70. Clause (4)(a) states that the area of the farm used for IWG must be no greater than 50 ha or 10% of the farm area, whichever is greater. Clause (4)(a) has not been amended.
71. Clause (4)(b) set a mean slope for permitted IWG of 10 degrees or less. The 2022 amendments added to this, specifying that the slope is measured over any 20 m distance of the land.
72. Clause (4)(c) set prescriptive limits on pugging, such that it must not be deeper than 20 cm at any one point, except within 10 m of a fixed gate or water trough. In addition, pugging must not cover more than 50% of the paddock. The 2020 amendment made a minor change to the structure of this clause, while the 2022 amendment removed it in its entirety and replaced it with Regulation 26A. Regulation 26A requires that all reasonably practicable steps must be taken to minimise adverse effects on freshwater of any pugging that occurs on that land.
73. Clause (4)(d) requires that livestock must be kept at least 5 m away from the bed of any river, lake, wetland or drain,<sup>23</sup> and has not been amended.
74. Clause (4)(e) set a replanting date for the resowing of land used for IWG after stock have grazed the forage crop. Replanting was to occur as soon as practicable, but no later than 1 October of the same year (1 November of the same year in Otago and Southland<sup>24</sup>). The 2022 amendment replaced clause (4)(e), removed clauses (7) and (8) in their entirety and added Regulation 26B. Regulation 26B requires that vegetation is established as ground cover over the land used for IWG as soon as practicable after livestock have finished grazing the land.
75. New clause (4)(e) requires that during the IWG period, critical source areas (**CSA**) that are within or adjacent to any land used for IWG:
- a. must not be grazed;
  - b. must have vegetation maintained as ground cover over all of the CSA; and

---

<sup>23</sup> The definition of 'drain' has been clarified in the 2022 amendment to exclude a sub-surface drain.

<sup>24</sup> Clause (7) of the NES-F.

- c. must not include any cultivation or harvesting of annual forage crops to maintain the vegetation ground cover.

76. Clause (5) refers to Regulation 29 and has not been amended.

77. Clause (6) refers to information being provided for the purpose of monitoring compliance and has not been amended.

*Regulation 27*

78. Regulation 27 provides a restricted discretionary pathway for IWG, managing the land use and associated discharge. Regulation 27 has not been amended.

*Regulation 28*

79. Regulation 28 was amended in 2020, and states that Regulations 29 and 30 do not apply if the regional council has publicly notified amendments to its plan to give effect to the NPSFM.

*Regulation 29*

80. Regulation 29 sets additional conditions that activities managed under Regulations 26 and 27 must comply with. The conditions as described in clause (3) are that land on a farm must have been used for IWG in the reference period, and that the area of land used for IWG must be no greater than the maximum area used for IWG in the reference period.

81. Clause (4) confirms that clause (3) must be complied with, even if the maximum area used in the reference period is less than that specified in Regulation 26(4)(a).

82. Clause (5) refers to information being provided for the purpose of monitoring compliance and has not been amended.

83. The 2021 amendments added two new clauses to the regulation, being clauses (6) and (7).

84. Clause (6) states that until Regulations 26 and 27 come into force, any activity permitted under Regulation 26 must comply with Regulation 29(3), but does not need comply with clauses (3) or (4) of Regulation 26.

85. Clause (7) states that clauses (6) and (7) are revoked on 1 May 2022, with the 2022 amendments extending this date to 1 November 2022.

*Regulation 30*

86. Regulation 30 provides a discretionary pathway for IWG that does not comply with Regulation 29(3), managing the land use and associated discharge. Regulation 30 has not been amended.

*Regulation 31*

87. Regulation 31 sets the date of revocation for the temporary provisions (Regulations 28-30), and the references to those provisions (Regulations 26(5) and 27(3)). These provisions are revoked on 1 January 2025. Regulation 31 has not been amended.



---

Matthew McCallum-Clark

13 May 2022

**Appendix 1 – Schedule 7A Management Plan for Farming Activities**

## Schedule 7A Management Plan for Farming Activities

### Part A – Management Plans

A Management Plan can be either:

1. A Plan prepared in accordance with the requirements of Part B below; or
2. A Plan prepared in accordance with an industry prepared Farm Environment Plan template that has been certified by the Chief Executive of Environment Canterbury as providing at least an equivalent amount of information and practice guidance contained in Part B below.

### Part B – Management Plan Default Content

The Management Plan shall contain as a minimum:

1. Property details
  - (a) Physical address
  - (b) Description of the ownership and name of a contact person
  - (c) Legal description of the land and farm identifier.
2. A map(s) or aerial photograph at a scale that clearly shows:
  - (a) The boundaries of the property.
  - (b) The boundaries of the main land management units on the property.
  - (c) The location of permanent or intermittent rivers, streams, lakes, drains, ponds or wetlands.
  - (d) The location of riparian vegetation and fences adjacent to water bodies.
  - (e) The location on all waterways where stock access or crossing occurs.
  - (f) The location of any areas within or adjoining the property that are identified in a District Plan as “significant indigenous biodiversity”.
  - (g) The location of any critical source areas for phosphorus loss including any part of the property within the High Runoff Risk Phosphorus Zone.
3. A description of:
  - (a) the on-farm actions that have been undertaken in the previous 01 July to 30 June period to implement the applicable practices described in the table below; and
  - (b) the on-farm actions that will be undertaken over the next 01 July to 30 June period to implement the applicable practices described below.
4. A copy of the Farm Environment Plan or Management Plan shall be retained by the landowner and updated at least once every 12 months as necessary, and provided to the Canterbury Regional Council on request.

Canterbury Land and Water Regional Plan

Practice	On-farm actions undertaken in the previous 12 months	On-farm actions to be undertaken in the next 12 months
Water, effluent and fertiliser is applied at a rate that does not exceed the water holding capacity of the soil or the agronomic requirements of the crop.		
Irrigation systems, effluent application systems, fertigation systems and fertiliser or organic manure systems are assessed annually, and maintained and operated to apply irrigation water, waste or nutrients efficiently.		
Silage pits, refuse pits and offal pits are sited, designed and managed to avoid the discharge of leachate into surface waterbodies		
Effluent systems meet industry Codes of Practice or an equivalent standard.		
Fertiliser is stored a minimum of 20 metres from surface waterbodies		
Non irrigation water use is monitored and efficient.		
Stock are excluded from waterbodies in accordance with regional council rules or any granted resource consent.		
Vegetated buffer strips of at least 5 metres in width are maintained between areas of winter grazing and any river, lake, drain or wetland.		
Vegetated riparian margins of sufficient width are maintained to minimise nutrient, sediment and microbial pathogen losses to waterbodies.		

## **Appendix 2 - Schedule 7 Farm Environment Plan**

## Schedule 7 Farm Environment Plan

### Definitions

In Schedule 7 the following definitions apply:

**Management Area** means the areas of farm management practice as set out below:

- (a) Nutrients
- (b) Irrigation
- (c) Cultivation and soil structure
- (d) Animal effluent and solid animal waste
- (e) Waterbodies (riparian areas, drains, rivers, lakes, wetlands)
- (f) Point sources – offal pits, farm rubbish pits, silage pits
- (g) Water use (excluding water associated with irrigation) – stock water and wash-down water

**Objective** – means the overarching outcome sought in relation to each **Management Area**.

**Target** – means a measurable, auditable statement that contributes to achievement of the **Objective** in each **Management Area**.

### Part A – Farm Environment Plans

A Farm Environment Plan can be based on either of:

1. The material set out in Part B below;

OR

2. Industry prepared Farm Environment Plan templates and guidance material that:
  - (a) Includes the following minimum components:
    - (i) The matters set out in 1, 2, 3, 4B and 5 of Part B below;
    - (ii) Contains a methodology that will enable development of a plan that will identify actual and potential environmental effects and risks specific to the property, addresses those effects and risks and has a high likelihood of appropriately avoiding, remedying or mitigating those effects;
    - (iii) Performance measures that are capable of being audited as set out in Part C below; and
    - (iv) matters or requirements set out in Part B of Schedule 7 that have been added as a result of a sub-region planning process; and
  - (b) Has been approved as meeting the criteria in (a) and being acceptable to the Canterbury Regional Council by the Chief Executive of the Canterbury Regional Council.

### Part B – Farm Environment Plan Default Content

The plan requirements will apply to:

- (a) a plan prepared for an individual property or farm enterprise; or
- (b) a plan prepared for an individual property which is part of a collective of properties, including an irrigation scheme, principal water supplier, or an Industry Certification Scheme.



The plan shall contain as a minimum:

1. Property or farm enterprise details
  - (a) Physical address
  - (b) Description of the ownership and name of a contact person
  - (c) Legal description of the land and farm identifier
  
2. A map(s) or aerial photograph at a scale that clearly shows:
  - (a) The boundaries of the property or land areas comprising the farming enterprise.
  - (b) The boundaries of the main land management units on the property or within the farming enterprise.
  - (c) The location of permanent or intermittent rivers, streams, lakes, drains, ponds or wetlands.
  - (d) The location of riparian vegetation and fences adjacent to water bodies.
  - (e) The location on all waterways where stock access or crossing occurs.
  - (f) The location of any areas within or adjoining the property that are identified in a District Plan as “significant indigenous biodiversity”.
  - (g) The location of any critical source areas for phosphorus or sediment loss for any part of the property including any land within the High Runoff Risk Phosphorus Zone.
  - (h) The location of flood protection or erosion control assets, including flood protection vegetation.
  - (i) Public access routes or access routes used to maintain the rivers, streams, or drains.
  
3. A list of all Canterbury Regional Council resource consents held for the property or farming enterprise.
  
- 4A. An assessment of the adverse environmental effects and risks associated with the farming activities and how the identified effects and risks will be managed, including irrigation, application of nutrients, effluent application, stock exclusion from waterways, offal pits and farm rubbish pits.
  
- 4B.
  - (a) nutrient budgets which show the nitrogen baseline and nitrogen loss calculation for the property or farming enterprise; and
  - (b) a report from the Farm Portal which shows for any property or farming enterprise the Baseline GMP Loss Rate and Good Management Practice Loss Rate or in those circumstances provided for in this Plan, the Equivalent Baseline GMP Loss Rate and Equivalent Good Management Practice Loss Rate.
  
5. A description of how each of the following objectives and targets for each Management Area, where relevant, will be met and the specific actions that will be implemented to attain the targets:

**5A Management Area: Nutrients**

**Objectives:**

- (1) Use nutrients efficiently and minimise nutrient losses to water.
- (2) Nutrient losses do not exceed consented nitrogen loss limits.

**Targets:**

- (1) Nitrogen losses from farming activities are at or below the:
  - (a) Baseline GMP Loss Rate or Good Management Practice Loss Rate (whichever is the lesser); or
  - (b) consented nitrogen loss limits.
- (2) Available nitrogen loss mitigation measures (excluding those associated with irrigation, fertiliser or effluent management) are implemented.
- (3) Phosphorus and sediment losses from farming activities are minimised.
- (4) Manage the amount, timing and application of fertiliser inputs to match the predicted plant requirements and minimise nutrient losses
- (5) Store and load fertiliser to minimise the risk of spillage, leaching and loss into water bodies.

**5B Management Area: Irrigation**

**Objective:**

The amount and timing of irrigation is managed to meet plant demands, minimise risk of leaching and runoff and ensure efficient water use.

**Targets:**

- (1) New irrigation systems are designed and installed in accordance with industry codes of practice and standards.
- (2) The performance of irrigation systems is assessed annually and irrigation systems are maintained and operated to apply irrigation water at their optimal efficiency.
- (3) The timing and depth of irrigation water applied takes account of crop requirements and is justified through soil moisture monitoring or soil water budgets and climatic information.
- (4) Staff are trained in the operation, maintenance and use of irrigation systems.

**5C Management Area: Cultivation and Soil Structure**

**Objective:**

The physical and biological condition of soils is maintained or improved in order to minimise the movement of sediment, phosphorus and other contaminants to waterways.

**Targets:**

- (1) Farming activities are managed so as to not exacerbate erosion.
- (2) Farming practices are implemented that optimise infiltration of water into the soil profile and minimise run-off of water, sediment loss and erosion.

**5D Management Area: Animal Effluent and Solid Animal Waste**

**Objective:**

Animal effluent and solid animal waste is managed to minimise nutrient leaching and run-off.

**Targets:**

- (1) Effluent systems meet industry Codes of Practice or an equivalent standard.
- (2) The timing and rate of application of effluent and solid animal waste to land is managed so as to minimise the risk of contamination of groundwater or surface water bodies.
- (3) Sufficient and suitable storage is available to enable animal effluent and wash-down water to be stored when soil conditions are unsuitable for application.
- (4) Staff are trained in the operation, maintenance and use of effluent storage and application systems.

**5E Management Area: Waterbodies (wetlands, riparian areas, drains, rivers, lakes)**

**Objective:**

Wetlands, riparian areas and the margins of surface waterbodies are managed to avoid damage to the bed and margins of the water body, and to avoid the direct input of nutrients, sediment, and microbial pathogens.

**Targets:**

- (1) Stock are excluded from waterbodies in accordance with regional council rules or any granted resource consent.
- (2) Vegetated riparian margins of sufficient width are maintained to minimise nutrient, sediment and microbial pathogen losses to waterbodies.
- (3) Farm tracks, gateways, water troughs, self-feeding areas, stock camps, wallows and other farming activities that are potential sources of sediment, nutrients and microbial loss are located so as to minimise the risks to surface water quality.
- (4) Mahinga kai values are protected as a result of measures taken to protect and enhance water quality and stream health.

**5F Management Area: Point Sources (offal pits, farm rubbish pits, silage pits)**

**Objective:**

The number and location of pits are managed to minimise risks to health and water quality.

**Target:**

- (1) All on-farm silage, offal pit and rubbish dump discharges are managed to avoid direct discharges of contaminants to groundwater or surface water.

**5G Management Area: Water-use (excluding irrigation water)**

**Objective:**

To use water efficiently ensuring that actual use of water is monitored and efficient.

**Target:**

- (1) Actual water use is efficient for the end use.

The plan shall include for each objective in 5 above;

- (a) detail commensurate with the scale of the environmental effects and risks;
  - (b) a description of the actions and Good Management Practices (and a timeframe within which those actions will be completed) that will be implemented to achieve the objectives and targets.
  - (c) a description of the good management practices together with actions required
  - (d) records required to be kept for measuring performance and attainment of the targets and objectives.
6. Nutrient budgets, prepared by a suitably qualified person, using the OVERSEER<sup>®</sup> nutrient budget model, or equivalent model approved by the Chief Executive of Environment Canterbury, for each of the identified land management units and the overall farm or farm enterprise.

**Sub-region Additions**

**7. Selwyn Te Waihora – Additional Requirements**

Within the Selwyn Te Waihora sub-region the following additional requirements for farm environment plans apply:

1. Include a map(s) or aerial photograph at a scale that clearly shows the location of any known mahinga kai, wāhi tapu or wāhi taonga within any property or farming enterprise located in the Cultural Landscape/Values Management Area.
2. Include a description of how the following objective will be met:  
**Nutrient management:** To maximise nutrient use efficiency while minimising nutrient losses to water by:
  - (a) minimising the loss of phosphorus and sediment within the Phosphorus Sediment Risk Area as shown in the planning maps; and
  - (b) achieving good management practice in respect of nutrient losses; and
  - (c) managing the discharge from drains within the Lake area of the Cultural Landscape/Values Management Area; and
  - (d) further reducing the nitrogen loss calculation from 2022 where a property or farming enterprise's nitrogen loss calculation is greater than 15 kg of nitrogen per hectare per annum.

8. **Hinds – Additional Requirements**

Within the Hinds/Hekeao Plains Area include a description of how the following objectives will be met:

**Nutrient Management:**

- (a) To maximise the nutrient use efficiency while minimising nutrient losses to water.
- (b) Achieve from 2017 the loss rates that could reasonably be expected from implementing good management practices.
- (c) In the Upper and Lower Hinds/Hekeao Plains Area further reduce the nitrogen loss rate in accordance with Policies 13.4.13 and 13.4.15.

9. **Waitaki – Additional Requirements**

Within the Waitaki, Part A of Schedule 7 includes the following:

*Note: A Farm Environment Plan developed under this schedule may also contain information about the management of any other environmental effect and can be used to assist in demonstrating compliance with other regulatory requirements in any other Regional Plan or the District Plan.*

Within the Waitaki, Part B includes the following:

**Management Area:** Mahinga kai

**Objective:**

To protect mahinga kai values.

**Target:**

Mahinga kai values of surface waterbodies on the property are recognised by achieving other objectives and targets in the Farm Environment Plan, and in addition by:

- (a) maintaining existing indigenous vegetation in accordance with relevant regional council and district council vegetation clearance rules or any granted resource consent;

- (b) identifying opportunities to undertake additional plantings of indigenous vegetation, and carrying out and managing any additional plantings in accordance with regional council guidelines for riparian planting;
- (c) undertaking farming activities in a manner that minimises adverse effects on existing indigenous vegetation and on any additional plantings of indigenous riparian vegetation; and
- (d) managing pest plants in accordance with regional council rules.

**Management Area: In-stream Biodiversity Values**

**Objective:**

To protect and enhance in-stream biodiversity values.

**Targets:**

- (1) On the map or aerial photograph of waterbodies required under Part A of this Schedule, specify the location of any spring heads, wetlands and spring-fed streams on the property or within the farming enterprise to recognise their high instream biodiversity values.
- (2) Prioritise achievement of the targets for Management Area: Waterbody Management for any spring heads, wetlands and spring-fed streams so as to protect and enhance the instream biodiversity values.

**Part C – Farm Environment Plan Audit Requirements**

The Farm Environment Plan must be audited by a Certified Farm Environment Plan Auditor who is independent of the farm being audited (i.e. is not a professional adviser for the property) and has not been involved in the preparation of the Farm Environment Plan.

The farming activity occurring on the property will be audited against the following minimum criteria:

- 1. An assessment of the performance against the objectives, targets, good practices and timeframes in the Farm Environment Plan;
- 2. An assessment of the robustness of the nutrient budget/s;
- 3. An assessment of the efficiency of water use (if irrigated).

*The Environment Canterbury Certified Farm Environment Plan Auditor Manual sets out the standards and methods to be used by a Certified Farm Environment Plan Auditor to demonstrate proficiency and competency in the auditing of Farm Environment Plans.*

**Appendix 3 – Farm Environment Plan Standard Resource Consent Conditions**

	<b>DEFINITIONS</b>
	<p><u>Base year/s</u> means the period in which the nitrogen loss limit for a particular farm system is determined.</p> <p><u>Base year inputs</u> mean records (XXX) that describes the farm system during the base year.</p> <p><u>Effective area</u> means total area of property/farming enterprise used for effective farmland as defined in the application.</p> <p><u>Farm system category</u> means farm system of a property/farming enterprise as defined by the relevant categories set out in Appendix CRCXXXXXXA, attached to, and forming part of the consent.</p> <p><u>Farm system descriptor</u> means a description of the farm system which is based on the total effective area, total irrigation, total winter grazing and farm system category of a property/farming enterprise.</p> <p><u>Good Management Practice (GMP)</u> means the practices described in the document entitled “Industry-agreed Good Management Practices relating to water quality” - dated 18 September 2015.</p> <p><u>Irrigation area</u> means lawfully irrigated land on a property/farming enterprise.</p> <p><u>Mitigation measures</u> means actions taken on the property/farming enterprise that will decrease the nitrogen loss risk OR On-farm changes that will decrease the nitrogen loss risk.</p> <p><u>Nitrogen Loss Limit (NLL)</u> for the property/farming enterprise is based on the base year inputs, farm system descriptors and farm system category undertaken during the 20XX-20XX period.</p>

	<p><u>Winter grazing</u> means the grazing of cattle on a property/farming enterprise within the period of 1 May to 30 September, where the cattle are contained for break-feeding of:</p> <ul style="list-style-type: none"> <li>a. in-situ brassica and root vegetable forage crops; or</li> <li>b. for consuming supplementary feed that has been brought onto the property (as defined in the LWRP).</li> </ul>
	<b>LIMITS</b>
1	<p>The use of land for farming shall only be within the area shown on Plan CRCXXXXXX, attached to and forming part of this consent.</p> <p><b>Advice Note:</b> <i>This resource consent authorises the use of land for farming for nutrient management purposes only. Other resource consents or restrictions from both the Regional and local District Council may apply in relation to any other activity, including but not limited to activities within or near riverbeds, lakes, wetlands or other waterways; vegetation clearance, and earthworks.</i></p>
	<b>FARM SYSTEM DESCRIPTION AND NITROGEN LOSS LIMITS</b>
2	<p><u>If the property/farming enterprise covers a single NAZ then use:</u></p> <p>For the purpose of Objective 5A (Management Area: Nutrients) in the FEP prepared in accordance with Condition (5), the consented nitrogen loss limit is described by the following farm system descriptors and base year inputs as described in the application:</p> <ul style="list-style-type: none"> <li>a. Maximum area of irrigation: X hectares</li> <li>b. Maximum area of winter grazing: X hectares;</li> <li>c. Maximum effective area: X hectares;</li> <li>d. Farm System Category X as described in Appendix CRCXXXXXXA; and;</li> <li>e. Mitigation measures specified in Condition (X)</li> </ul>

	<p>The determination of whether a farm meets the nitrogen loss limit will be whether the farm is:</p> <ol style="list-style-type: none"> <li>a. consistent with the farm system descriptors; and</li> <li>b. in accordance with the base year inputs as assessed using Environment Canterbury Nutrients Management - Guidelines for FEP Auditors.</li> </ol> <p>unless the property has been influenced by a severe extraordinary event (including but not limited to droughts and floods).</p> <p><u>If the property OR farm enterprise covers multiple NAZ then use:</u></p> <p>For the purpose of Objective 5A (Management Area: Nutrients) in the FEP prepared in accordance with Condition (5), the consented nitrogen loss limit is described by the following farm system descriptors and base year inputs as described in the application:</p> <ol style="list-style-type: none"> <li>a. for the area of the property OR farming enterprise located within the XXX Nutrient Allocation Zone: <ol style="list-style-type: none"> <li>i. Maximum area of irrigation: X hectares</li> <li>ii. Maximum area of winter grazing: X hectares;</li> <li>iii. Maximum effective area: X hectares;</li> <li>iv. Farm System Category X as described in Appendix CRCXXXXXXA; and</li> <li>v. Mitigation measures specified in Condition (X)</li> </ol> </li> <li>b. for the area of the property OR farming enterprise located within the XXX Nutrient Allocation Zone: <ol style="list-style-type: none"> <li>i. Maximum area of irrigation: X hectares</li> <li>ii. Maximum area of winter grazing: X hectares;</li> <li>iii. Maximum effective area: X hectares;</li> <li>iv. Farm System Category X as described in Appendix CRCXXXXXXA; and</li> <li>v. Mitigation measures specified in Condition (X)</li> </ol> </li> </ol>
--	---



	<p>The determination of whether a farm meets the nitrogen loss limit will be whether the farm is:</p> <ol style="list-style-type: none"> <li>a. consistent with the farm system descriptors; and</li> <li>b. in accordance with the base year inputs as assessed using Environment Canterbury Nutrients Management - Guidelines for FEP Auditors.</li> </ol> <p>unless the property has been influenced by a severe extraordinary event (including but not limited to droughts and floods).</p> <p><b>Advice Note:</b> <i>To assist the FEP auditor and the Consent Holder this Objective and Target has been inserted into Appendix CRCXXXXXX attached to this consent.</i></p> <p><b>Advice Note 2:</b> <i>This property is located within the (sub-region) – (specific nutrient allocation zone). e.g. This property is located within the Alpine River: Waimakariri Nutrient Allocation Zone.</i></p> <p><b>Advice Note 3:</b> <i>The base year inputs can be found in Canterbury Regional Council electronic file reference CXXC/XXXXXX, referred to as “CRCXXXXXX, Base Year Inputs.</i></p>
3	<p>The consent holder shall implement and maintain the following mitigation measures:</p> <ol style="list-style-type: none"> <li>a. XXX</li> <li>b. XXX</li> </ol>
4	<p>The consent holder shall maintain records of all base year inputs as described in Condition (2). A copy of the records shall be provided to an independent Farm Environment Plan auditor, certified by Canterbury Regional Council, on request.</p>
	<p><b>FARM ENVIRONMENT PLAN AND AUDITING REQUIREMENTS</b></p>
5	<p>The consent holder shall maintain a Farm Environment Plan (FEP) in accordance with Appendix CRCXXXXXX, which forms part of this consent; and</p>

	<ul style="list-style-type: none"> <li>a. on farm practice shall be in accordance with the FEP at all times;</li> <li>b. the FEP shall be updated as necessary to reflect any changes in the farming operation over time; and</li> <li>c. a copy of the FEP shall be provided to the Canterbury Regional Council, Attention: Regional Leader - Monitoring and Compliance on request.</li> </ul>
6	<p>The FEP prepared in accordance with Condition (x) above:</p> <ul style="list-style-type: none"> <li>a. shall be audited within 12 months of the grant of this consent in accordance with Part C of Appendix CRCXXXXXX.</li> <li>b. Subsequent audits shall be undertaken within the timeframes specified in Part C of Appendix CRCXXXXXX; and</li> <li>c. A copy of the audit data shall be provided to the Canterbury Regional Council in accordance with the requirements of the Canterbury Certified Farm Environment Plan (FEP) Auditor Manual.</li> </ul>
7	<p>The farming activity shall be managed:</p> <ul style="list-style-type: none"> <li>a. to achieve and maintain a Farm Environment Plan audit grade of “A” or “B”, as assigned in accordance with Part C of Appendix CRCXXXXXX; and</li> <li>b. such that it is not assigned a “C” or “D” grade.</li> </ul>
	<b>ADMINISTRATION</b>
8	<p>The Canterbury Regional Council may, once per year, on any of the last five working days of May or November, serve notice of its intention to review the conditions of this consent for the purposes of:</p> <ul style="list-style-type: none"> <li>a. dealing with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage;</li> <li>b. ensuring that the provisions of Appendix CRCXXXXXX relating to the FEP audit grading system and timeframes are still appropriate; or</li> <li>c. enabling the standards set by a regional plan to be met when a regional plan has been made operative which</li> </ul>

	sets rules relating to minimum standards of water quality.
--	--