

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KOOTI TAIAO O AOTEAROA
KI OTAUTAHI**

ENV-2018-CHC-000030

IN THE MATTER of the Resource Management Act 1991

AND appeals under clause 14 of the First Schedule of the Act

BETWEEN **WILKINS FARMING CO LIMITED**
Appellant

AND **SOUTHLAND REGIONAL COUNCIL**
Respondent

**STATEMENT OF EVIDENCE OF SHARON GAIL DINES
TOPIC B TRANCHE 1**

20 DECEMBER 2021

Counsel instructed:
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MAY IT PLEASE THE COURT:**Executive Summary**

1. My name is Sharon Gail Dines.
2. I support the deletion of the permitted activity standards for intensive winter grazing outlined in Rules 20(a)(iii)(3)(D) and (E). These are:
 - (D) if supplementary feed (including baleage, straw or hay) is used in the area being grazed it is placed in portable feeders; and*
 - (E) if cattle or deer are being grazed the mob size being grazed is no more than 120 cattle or 250 deer; and*
3. I consider that deleting these permitted activity standards is a more efficient and effective way of achieving the Objectives and Policies of the pSWLP than retaining them because:
 - (a) The farm systems experts do not identify any scientific evidence indicating that requiring portable feeders and limiting mob size will have a positive effect on water quality.
 - (b) The farm systems experts indicate limiting mob size could have an adverse effect on water quality, and that trampling of supplementary feed (as could occur without portable feeders) may reduce soil compaction and retain labile nitrogen.
 - (c) The deletion of Rules 20(a)(iii)(3)(D) and (E) would reduce the operational constraints on farming activities.
4. If the permitted activity standards for intensive winter grazing remain in Rule 20(a)(iii) then Rules 20(a)(3)(D) and (E) should be deleted. Alternatively, if the permitted activity standards for intensive winter grazing are moved to new Rule 20A, as proposed by the Planning JWS dated 10 December, then the proposed drafting of new Rule 20A would achieve the same outcome.

Introduction

5. My full name is Sharon Gail Dines
6. I am a Director and Principal Planner at Dines Consulting Limited, based in Auckland.
7. I hold the qualifications of Master of Science (Technology)(Honours) in Earth Sciences obtained in 1995 from the University of Waikato and Post Graduate Diploma in Resource Studies obtained in 2004 from Lincoln University. I am a full member of the New Zealand Planning Institute.
8. I have over 20 years' experience working in planning and resource management in New Zealand. My experience includes assisting clients with the preparation of submissions and further submissions, participating in mediation and witness conferencing and preparing and presenting evidence at Council, Environment Court or Board of Inquiry hearings in the following plan making processes:
 - (a) Tukituki Catchment Proposal in Hawke's Bay;
 - (b) Proposed Southland Regional Policy Statement;
 - (c) Variation 1 to the Canterbury Land and Water Plan in the Selwyn Te Waihora catchment;
 - (d) Proposed Auckland Unitary Plan;
 - (e) Plan Change 1 to the Waikato Regional Plan; and
 - (f) Proposal Regional Plan for Northland.
9. In addition, in 2012, I assisted the Ministry for the Environment with the development of the Guidance materials for the implementation of the National Policy Statement for Freshwater 2011.

Code of Conduct

10. I have read and am familiar with the Code of Conduct for Expert Witnesses in the current Environment Court Practice Note (2014). I have complied with it in the preparation of this evidence and will follow the Code when presenting this evidence. I also confirm that the matters addressed in this statement of evidence are within my area of expertise,

except where I rely on the opinion or evidence of other witnesses. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

Scope of Evidence

11. The Court's Record of Pre-Hearing Conference Timetable Direction for Topic B issued 22 October 2021 directed evidence in chief for appellants to be filed on 20 December 2021.
12. Wilkins Farming Co Limited (**Wilkins**) engaged me in October 2021 to provide planning advice, attend mediation and witness conferencing and prepare evidence in respect of the unresolved points of their appeal and section 274 notices on the proposed Southland Water and Land Plan (**pSWLP**).
13. Wilkins position on the unresolved points of their appeal and section 274 notices is set out in the Memorandum of Counsel Confirming Relief to be Sought dated 27 October 2021 from Ms Carruthers.
14. I prepared a Will Say statement on those same matters on 12 November 2021.
15. This evidence addresses the provisions Wilkins has appealed that fall within Topic B5 Farming.
16. In preparing this evidence, I have read and considered relevant sections of the following documents:
 - (a) The pSWLP Decisions Version 1 March 2021;
 - (b) Section 42A Hearing Report and Reply Report;
 - (c) The Council's Decision Report;
 - (d) Wilkins' Appeal;
 - (e) The Topic A Interim Decisions;
 - (f) Topic B Overview Evidence from the Regional Council, 22 October 2021
 - (g) The Joint Witness Statements (**JWS**) of the Farms Systems Experts, 22 November and 6 December 2021;
 - (h) The JWS of the Water Quality Experts, 24-26 November 2021;

- (i) The JWS of the Planning Experts, 10 December 2021;
- (j) The National Policy Statement for Freshwater Management 2020 (**NPSFM**)
- (k) The National Environmental Standard for Freshwater Management 2020 (**NESFM**)
- (l) The Southland Regional Policy Statement 2017 (**RPS**).

Background

- 17. Wilkins submitted on the notified version of the pSLWP.
- 18. Wilkins lodged an appeal to the Environment Court of the decisions version of the pSWLP.
- 19. Wilkins lodged s274 notices on the appeals of Aratiatia Livestock Limited (**Aratiatia**), Campbells Block Limited, Peter Chartres, Robert Grant, Stoney Creek Station Limited and The Terraces.
- 20. As recorded in Ms Carruthers' memorandum on 27 October 2021, Wilkins has no remaining interests in Topic B5 (Farming) Issues 37, 44, 82 and 88.
- 21. Wilkins' interests in Topic B5 (Farming) are limited to:
 - (a) As an appellant on Issue 38;
 - (b) As a s274 party on Issues 36, 40 and 49.
- 22. This evidence is limited to Issues 38 and 40.
- 23. This evidence does not address Topic B5 (Farming) Issues 36 and 49 on which Wilkins lodged s274 notices. I will address these provisions in s274 evidence in chief, which is due to be filed and served on 4 February 2022.

Topic B5

Issues 38 and 40: Mob Size and Supplementary Feed

24. In respect of Topic B5, Issue 38, Wilkins' appeal sought the removal (or deletion) of Rule 20(a)(iii)(3)(E) of the decisions version of the pSWLP which imposed the following restriction on Intensive Winter Grazing:

If cattle or deer are being grazed the mob size being grazed is no more than 120 cattle or 250 deer.

25. In respect of Topic B5, Issue 40, in their s274 notice on the appeal of Aratiatia, Wilkins supported Aratiatia's request to amend Rule 20(a)(iii)(3)(D) which also imposed a restriction on Intensive Winter Grazing. The requested amendment was:

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

26. Though Issue 40 is a s274 matter, I consider it efficient to address both the above matters in this evidence as the rationale for both the appeal and the s274 notice is the same, as are the reasons I support the relief agreed in the Planners JWS.
27. In summary, Wilkins' reasons for the relief sought for Rule 20(a)(iii)(3)(E) were that the restrictions are impractical and arbitrary and would cause unnecessary compliance requirements that would not contribute to reducing contaminant losses or improving water quality. Wilkins supported the relief sought by Aratiatia for Rule 20(a)(iii)(3)(D) because it would provide for flexibility of options and sensible management of supplementary feed to reduce compaction and nutrient loss, improve feed utilisation, stock access and animal welfare.
28. In the Planners' JWS #1 and JWS #2, dated 18 November 2021, the planners posed questions to the farm systems and water quality experts respectively. In respect of the two matters outlined in paragraphs 24 and 25 above:

(a) Question 12 to the farm systems experts was:

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

(b) Question 13 to the water quality experts was:

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

29. The water quality experts referred Question 13 to the farm systems experts on the basis that the subject matter was outside their expertise.¹

30. In response, the farm systems experts advised that:

(a) reducing or restricting mob size is not important in intensive winter grazing because stocking density is dictated by the yield of the crop and/or the amount of the crop being allocated per animal per day. They further advised that restricting mob size could result in great adverse effects from increased losses of the contaminants the plan is seeking to reduce.²

(b) They were not aware of any science supporting the use of portable feeders or other methods of preventing stock from trampling supplementary feed for the benefit of water quality. Conversely, they consider that some farming practices involving laying hay and straw on the ground to protect soil and provide comfortable bedding areas for animals will potentially reduce animal movement, reduce soil compaction and retain labile nitrogen.³

31. As the farm systems experts consider that the requirements of Rule 20(a)(iii)(3)(D) and 20(a)(iii)(3)(E) are unnecessary and could potentially lead to greater contaminant loss or adverse effects on water quality if imposed, I support their deletion.

¹ See page 13 of the water quality experts JWS, 26 November 2021.

² See page 10, water quality experts JWS, 24-26 November 2021.

³ See (un-numbered) pages 8-9 of farm systems experts JWS, 6 December 2021.

32. While the deletion of 20(a)(iii)(3)(E) is the exact relief sought in the Wilkins' appeal, the deletion of 20(a)(iii)(3)(D) is different to what was sought in the Aratiatia appeal. I consider that this alternative relief is preferable to that sought in the Aratiatia appeal and will give effect to Wilkins' appeal and s274 notice on these matters.
33. The planning JWS dated 10 December 2021 also supports this relief.⁴
34. The proposed new Rule 20A relating to intensive winter grazing in the planning JWS dated 10 December 2021 omits both of these former controls.⁵
35. The tracked changes versions of both Rule 20 and proposed new Rule 20A are contained in Attachment 1 to this evidence.

Section 32AA RMA Evaluation of deleting Rules 20(a)(iii)(3)(D) and I

36. The scope of the changes proposed is narrow because of the narrow scope of Wilkins' appeal and s274 notice. Therefore, in identifying other reasonably practicable options for achieving the objectives, I have only considered retaining mob size limits and the requirement to use portable feeders (Rules 20(a)(iii)(3)(D) and I respectively) in Rule 20(a)(ii)(3) (or Rule 20A(a)(vi)(4) and (5) in the Planners JWS dated 10 December 2021) or deleting them. I consider this appropriate given the scale and significance of the effects that are anticipated from the implementation of the change.
37. Based on the evidence from the farm systems experts, retaining Rules 20(a)(iii)(3)(D) and I from the decisions version of the pSWLP would impose arbitrary constraints of farming operations that have the potential to increase contaminant losses from farming activities causing adverse effects on water quality. Such constraints are therefore unnecessary and potentially perverse as they could result in outcomes that are contrary to Objectives 1 and 2 of the pSWLP. If imposed I

⁴ See paragraph 30 on page 7 of the planning JWS, 10 December 2021.

⁵ See Rule 20A(a)(vi)(4) and (5) on page 5 of the attachment to the planning JWS titled B5 Farming.

consider it is common sense that they are likely to have a negative impact on economic growth and employment though, I acknowledge that at the individual farm scale, this impact is likely to be small.

38. These provisions form part of Rule 20 of the pSWLP which sets out requirements for permitted farming activities. In my opinion, Rule 20 is intended to assist with the implementation of Policies 13 and 16 which in turn are intended to contribute to achieving a number of the objectives of pSWLP. These objectives include Objective 3, Objective 6 and Objective 13 in particular, while also achieving the overall outcomes sought by Objectives 1 and 2 noting that, as set out in the Interpretation Statement included in the pSWLP, these two objectives are fundamental to the plan.⁶
39. Objective 1 and 2 are foundational to the plan and are required to be at the forefront of all discussions and decisions about water and land.⁶ In this context, I understand that Objective 3 recognises, subject to Objective 1 and 2, that water and land are enablers of economic, social and cultural wellbeing. Objective 6 requires, at the same time, for water quality in each freshwater body, coastal lagoon and estuary to be maintained where it is not degraded and improved where it is degraded by human activities. Objective 13 allows the use of land and soils to enable the economic, social and cultural wellbeing of the region provided soil resources are not irreversibly degraded through landuse activities or discharges to land; the health of people and communities is safeguarded from adverse effects of discharges of contaminants to land and water; and ecosystems are safeguarded.
40. Policy 13 elaborates on Objectives 3 and 13 and links to Policies 15A-C which elaborate on Objective 6. Policy 16 specifically manages farming activities that affect water quality and Rule 20 is intended to implement Policy 16. Read together, and in summary, I understand the Objectives and Policies to mean that subject to Objective 1 and 2, the use of land and water, including for farming activities is to be allowed provided water quality is maintained where it is good and improved where it is degraded.

⁶ Paragraph's [9]-[10] of Environment Court Second Interim Decision.

41. In my opinion, the requirements of Rule 20(a)(iii)(3)(D) and 20(a)(iii)(3)(E) would be contrary to the direction of the Objectives and Policies of pSWLP as they could lead to a worsening of water quality and should therefore be deleted.
42. I consider that there is sufficient certain information, in the evidence from the farm systems experts, that the risk of acting or not acting does not need to be assessed.



Sharon Gail Dines

20 December 2021

Attachment 1 – Tracked changes to Rule 20 and Rule 20A

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

Rule 20 – Farming

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

...

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

...

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

...

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

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

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

...

Alternatively, if the permitted activity standards for intensive winter grazing are included in new Rule 20A (as proposed in the Planning JWS), then delete Rule 20(a)(iii)(3) and replace with Rule 20A(a)(vi) as follows.

Rule 20A – Intensive winter grazing

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

...

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

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

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

and

(3) transportable water troughs; and

~~(4) supplementary feed (including baleage, straw or hay) being fed in~~

~~such a way as to prevent the supplementary feed being trampled~~

~~into the ground, such as by placing the supplementary feed in~~

~~portable feeders or behind an electrified wire; and~~

~~(5) limiting the mob size to no more than 120 cattle or 250 deer; and~~

...