

**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

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

**22 FEBRUARY 2022**

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**Counsel instructed:**  
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## **MAY IT PLEASE THE COURT:**

### **Introduction**

1. My full names is Sharon Gail Dines.
2. My role, qualifications and experience are set out in paragraphs 2-5 of my evidence in chief dated 20 December 2021.

### **Code of Conduct**

3. 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**

4. 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**).
5. 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.
6. I prepared a Will Say statement on those same matters on 12 November 2021 and participated in witness conferencing in November and December 2021. I also prepared Evidence in Chief dated 20 December 2021 and Section 274 evidence dated 4 February 2022.
7. This evidence responds to the evidence of Mr Matthew McCallum-Clark on behalf of Southland Regional Council (Council) and addresses intensive winter grazing on pasture.

8. 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 Report and Recommendations of the Hearing Commissioners dated 29 January 2018;
  - (d) Wilkins' Appeal;
  - (e) The Topic A Interim Decisions;
  - (f) Topic B Overview Evidence from the Regional Council, 22 October 2021;
  - (g) Will Say statement of Mr Matthew McCallum Clark and associated Council "preferred relief";
  - (h) The Joint Witness Statements (**JWS**) of the Farms Systems Experts, 22 November and 6 December 2021;
  - (i) The JWS of the Water Quality Experts, 24-26 November 2021;
  - (j) The JWS's of the Planning Experts, 17-19 November 2021 and 10 December 2021;
  - (k) The evidence of the other appellants dated 20 December 2021;
  - (l) The National Policy Statement for Freshwater Management 2020 (**NPSFM**);
  - (m) The National Environmental Standard for Freshwater Management 2020 (**NESF**);
  - (n) The Southland Regional Policy Statement 2017 (**RPS**);
  - (o) The Southland Intensive Winter Grazing NES Advisory Group report dated 10 December 2020;
  - (p) The evidence of Mr Sean Wilkins dated 4 February 2022;

- (q) The evidence of the section 274 parties dated 4 February 2022; and
- (r) The evidence of Dr Gregory Burrell, Dr Ross Monaghan and Mr Matthew McCallum Clark for Southland Regional Council dated 11 February 2022;
- (s) The draft evidence of Mr Tom Orchiston.

### **Planning Joint Witness Statement**

- 9. I participated in the joint witness conferencing of the planners that took place on 17-19 November 2021 and 9-10 December 2021. I also observed the farm systems witness conferencing that took place on 22 November 2021 and 6 December 2021 and the ecology witness conferencing that took place on 1 December 2021. I prepared evidence in chief in support of the agreed changes in the Planning JWS within scope of Wilkins' interests.
- 10. Except as set out in my section 274 evidence dated 4 February 2022 and the Planning JWS relating to intensive winter grazing and intensive winter grazing on pasture, I agreed with the changes made to the farming provisions in the JWS.

### **Rule 20A Intensive Winter Grazing**

- 11. In paragraphs 106-119 of his evidence in chief, Mr McCallum Clark sets out concerns regarding using a threshold of 15% of the area of a landholding for intensive winter grazing or a permitted activity certification regime that results in the same.
- 12. This is the percentage threshold contained in the decisions version of the pSWLP.
- 13. Mr Wilkins states in his evidence that on Wilkins' properties, 15-20% of their land is used for winter forage crops.<sup>1</sup> A 15% cap will therefore result in a reduction of up to 5% in the total land area used for winter crops on Wilkins land, not an increase.

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<sup>1</sup> Evidence of Mr Sean Wilkins, paragraph 21.

14. Mr Orchiston advises that there is a lack of scientific evidence regarding what area limitations should be for winter grazing<sup>2</sup>. In my opinion, any limit imposed will therefore be arbitrary.
15. In paragraph 119, Mr McCallum Clark states that a 15% threshold “is likely to lead to, all other things being equal, at least the same level of contaminants entering surface or groundwater”.
16. My concern with this statement is that farming systems are complex and diverse<sup>3</sup> and I consider it highly *unlikely* that “all other things will be equal.”
17. In his rebuttal evidence, Mr Orchiston explains that the primary reason for using winter crops in Southland is to provide food for stock at times when there would otherwise be a shortage. Winter crops also play an important role in pasture renewal, pest, weed and disease management and pasture and soil protection.<sup>4</sup>
18. Mr Orchiston also identifies that most commercial sheep, beef and dairy farms configure their farm system to match stocking rates with the pasture growth curve which varies due to variations in climate, plant species grown and plant biology. Variation can also occur as a result of farm terrain.<sup>4</sup>
19. In responding to a different, though related, issue, Dr Dalley outlines a range of different winter grazing systems<sup>5</sup> which also illustrates the variation and diversity that can occur in just one aspect of farming.
20. In my opinion, the evidence of Mr Wilkins, Mr Orchiston and Dr Dalley illustrate that farming is complex and there is a diverse range of inter-related activities and decisions involved such that it is an oversimplification to conclude that a 15% threshold “is likely to lead to, all

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Evidence of Mr Tom Orchiston, paragraph 29.

<sup>3</sup> Ibid., paragraph 33.

<sup>4</sup> Ibid., paragraph 17-25.

<sup>5</sup> Evidence of Dr Dawn Dalley, paragraph 27-42

other things being equal, at least the same level of contaminants entering surface or groundwater".

21. Mr Orchiston provides further confirmation that imposing an arbitrary limit that is too low could result in perverse outcomes as land managers seek to maximise feed production to produce enough feed for their stock over winter<sup>6</sup> or make other changes to their farming systems that that have environmental or cost implications, or both.<sup>7</sup>
22. Finally, Mr Orchiston concludes that flexibility is needed:
  - (a) for farmers to manage their farms in a sustainable and responsible way while remaining profitable; and
  - (b) to enable them to adapt in response to changes in regulation, climate and new technology.
23. Mr Orchiston considers that winter grazing plans and farm plans are appropriate to manage winter grazing risks and supports a 15% limit and the deletion of the 100-hectare alternative control.
24. In my opinion, when considering an intensive winter grazing limit, "less" is not necessarily "best," particularly when it is used in combination with the extensive and detailed requirements for Farm Environment Management Plans (FEMP) in Appendix N which requires, amongst other things:
  - (a) Identification of critical source areas and intensive winter grazing areas, presence of taonga species (if known) and significant values and uses on nearby land and waters (if known);
  - (b) A nutrient budget or nutrient loss risk assessment;
  - (c) objectives for irrigation, nutrient and soil management, waterways and wetland management, effluent management together with an identification of adverse environmental effects

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<sup>6</sup> Evidence of Mr Tom Orchiston, paragraph 27

<sup>7</sup> Evidence of Mr Tom Orchiston, paragraph 31-32

and risks and how these effects and risks will be managed or mitigated;

- (d) where the farm is located in a water body that requires improvement the mitigations that will achieve a reduction in the discharge of contaminants of concern;
- (e) pathways and timeframes for achievement of the objectives and the keeping of records to demonstrate mitigations have been actioned;
- (f) an intensive winter grazing plan that takes into account and responds to the risk pathways for the relevant physiographic zone; and
- (g) Certification, auditing, review and amendment of the FEMP with requirements for the certifier and auditor to be different suitably qualified people not from the same organisations who are approved by the Council.

25. For these reasons, I remain of the view that any limit on the area of IWG should not be less than 15% of the landholding.

26. Ms Carruthers is filing a memorandum dated 22 February 2022 that sets out the relief being pursued to achieve this.

### **Intensive Winter Grazing on Pasture**

27. A number of witnesses have given evidence relating to intensive winter grazing on pasture.<sup>8</sup> I do not wish to repeat the evidence or arguments presented.

28. I consider that the summary of the position reached by the planners set out in paragraph 29 of Ms Jordan's evidence is accurate and reflects my understanding of the planning conferencing on the topic. I also

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<sup>8</sup> Section 274 evidence of Ms Carmen Taylor paragraph 41-45, s274 evidence of Ms Claire Jordan, s274 evidence of Mr Cain Duncan, paragraph 124-126, s274 evidence of Dr Dawn Dalley, paragraph 12-64, s274 evidence of Mr Gerard Willis, paragraph 6.1 – 6.15, evidence in chief of Mr Peter Wilson, paragraphs 7.1-7.8, evidence in chief of Ms Kathryn McArthur, paragraph 57-61, evidence in chief of Mr Ben Farrell, paragraph 92-96, s274 evidence of Mr Ben Farrell paragraph 24-28

consider that Ms Jordan articulates the three proposals put forward by Mr Farrell, the Planning JWS and by Mr Wilson respectively. In addition, Mr Willis has put forward a fourth proposal for the management of this activity through Farm Environment Management Plans. Amendments to Appendix N of the pSWLP are necessary to implement Mr Willis' proposal.

29. Based on the evidence of Dr Dalley and Mr Duncan, I agree with the discussion of the issue and the proposed solution set out in Mr Willis' evidence.



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**Sharon Gail Dines**

22 February 2022