

**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)

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

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

**BRIEF PREPARED BY MATTHEW MCCALLUM-CLARK IN RELATION TO
EXPERT CONFERENCING ON 6 & 7 AUGUST 2020
20 July 2020**

Judicial Officer: Judge Borthwick

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**GORE DISTRICT COUNCIL, SOUTHLAND DISTRICT
COUNCIL & INVERCARGILL DISTRICT COUNCIL**
(ENV-2018-CHC-31)

DAIRYNZ LIMITED
(ENV-2018-CHC-32)

H W RICHARDSON GROUP
(ENV-2018-CHC-33)

BEEF + LAMB NEW ZEALAND
(ENV-2018-CHC-34 & 35)

DIRECTOR-GENERAL OF CONSERVATION
(ENV-2018-CHC-36)

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

MERIDIAN ENERGY LIMITED
(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

- 1 My full name is Matthew Eaton Arthur McCallum-Clark.
- 2 My qualifications and experience are set out in my Statement of Evidence in Chief dated 14 December 2018, and updated in my Statement of Evidence in Chief dated 17 April 2020.
- 3 While this is not a brief of evidence, in places I express my professional opinion. For this material, I confirm that I have read and am familiar with the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014. I agree to comply with that Code. Other than where I state that I am relying on the evidence of another person, my opinions are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of brief

- 4 At para [22] of the Court's Minute dated 13 July 2020, the Court requests a brief "responding to the matters raised by the court. With respect to the Court's findings, this is to include matters in relation to which the Court sought further evidence and proposing (if relevant) amendments to the objectives and policies."
- 5 The Court has clarified in a footnote that a brief of evidence is not expected, but rather a document to assist the expert conferencing.
- 6 In this brief, I provide a summary for each objective or policy, generally structured by beginning with the Court's interim findings, followed by the Court's requests, my summary of the outstanding issues and the evidence requested by the Court and concluding with my suggestions as to revised wording (if any).
- 7 In formulating this brief I have had preliminary discussions with some of the other planning witnesses, as time has allowed. This has mainly been to clarify issues, rather than being able to discuss substantive solutions. For the avoidance of doubt, I have considered a wide range of material, including:

- (a) The first Interim Decision;¹
- (b) The second Interim Decision;²
- (c) The Court's Minutes and the Memoranda filed by Counsel;
- (d) All evidence filed on behalf of the planning and science witnesses;
- (e) The Southland Regional Policy Statement (**RPS**); and
- (f) The National Policy Statement for Freshwater Management 2014 (as amended 2017) (**NPSFM**).

Summary of each Topic A provision

- 8 As I understand it, the current situation for each objective and policy at issue in Topic A is as follows:

Objective 1	Resolved.
Objective 3	Resolved.
Objective 2	Resolved.
Objective 4	Resolved.
Objective 5	Resolved.
Objective 6	Largely resolved. Outstanding question regarding the types of waterbodies it applies to, which is discussed further below.
Objective 7	Resolved.
Objective 8	Resolved.
Objectives 9 and 9A	Largely resolved. Outstanding question in relation to use of 'life-supporting capacity', which is discussed further below.
Objective 9B	Outstanding questions in relation to the wording of the Objective, giving effect to the

¹ [2019] NZEnvC 208.

² [2020] NZEnvC 93.

	RPS and issues it is seeking to address, which are discussed further below.
Objective 10	Resolved.
Objective 11	Resolved.
Objective 12	Resolved.
Objectives 13, 13A and 13B	Largely resolved. Outstanding question in relation to the structure of the Objective, which is discussed further below.
Objective 14	Largely resolved. Outstanding question in relation to use of 'life-supporting capacity', which is discussed further below.
Objective 15	Resolved.
Objective 16	Not subject to Topic A.
Objective 17	Largely resolved. Outstanding question in relation to the guidance provided by the Objective, especially in relation to 'significance', which is discussed further below.
Objective 18	Questions in relation to what the Objective is seeking to achieve, which are discussed further below.
Policy 1 – Enable papatipu rūnanga to participate	Resolved.
Policy 2 – Take into account iwi management plans	Resolved.
Policy 3 – Ngāi Tahu ki Murihiku taonga species	Outstanding questions in relation to listing taonga species and outcomes to be achieved, which are discussed further below.

Physiographic Zone Policies	Largely resolved. Outstanding questions in relation to whether they apply to farming only, dairy farming 'of cows' and a potential policy gap, which are discussed further below.
Policy 44 – Implementing Te Mana o te Wai	Resolved.
Policies 45 – 47	To be reviewed in the light of the 2020 amendments to the NPSFM.

- 9 A full suite of the above provisions, as recommended to be amended per the discussion below, is included in Annexure 1.

Objective 6

- 10 The first Interim Decision proposed Objective 6 be amended as follows:³

Water quality in each freshwater body will be:

- (a) maintained where the water quality is not degraded;
 - and
 - (b) improved where the water quality is degraded by human activities.
- 11 The first Interim Decision stated that Objective 6 should be amended to refer to “each” freshwater body. The Decision, at [128] stated that further submissions would be sought on whether the omission of certain types of waterbodies was intentional and whether the omission could frustrate the approach of recognising the inter-connectedness of the water bodies and addressing water holistically. The Minute dated 29 June 2020 refers to paragraphs [125]-[128] of the first Interim Decision and directs the planning witnesses to confer and confirm the waterbodies (including freshwater and estuarine) to be referenced in Objective 6.

³ First Interim Decision, at paragraph [129] and Annexure 1.

12 In my Rebuttal Evidence,⁴ I considered the suggested changes to the kinds of waterbodies addressed in Objective 6 that were put forward by Ms Kirk and Ms Davidson. Ms Kirk and Ms Davidson suggested the inclusion of estuaries and coastal lagoons. Mr Farrell also commented on the application of the proposed Southland Water and Land Plan (**pSWLP**) to the coastal environment and the coastal marine area.⁵ As set out in my Rebuttal Evidence,⁶ the integrated management of waterbodies means that the effects on the coastal marine area and estuaries, in particular, are critically important considerations. This was always the intention when drafting the pSWLP, which aligns with Objective 1 in relation to *ki uta ki tai*, and aligns with the technical evidence given in the first hearing before the Court. This is also reinforced by the higher order planning instruments, particularly the reference to “*connections between freshwater and coastal water*” within Policy A1 of the NPSFM and direction within the RPS, specifically Objectives WQUAL.1 and WQUAL.2.⁷

13 As defined by the RMA, ‘fresh water’:⁸

means all water except coastal water and geothermal water.

14 Based on this, I consider the inclusion of ‘freshwater body’ alone in Objective 6 could omit water quality improvements in coastal lagoons and estuaries and that therefore may not result in the integrated management of water bodies or accord with the direction provided by higher order planning instruments. To provide for this, I consider

⁴ Dated 22 May 2020

⁵ At paragraph [29].

⁶ At paragraph 29.

⁷ *Objective WQUAL.1 – Water quality goals*

Water quality in the region:

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

(b) *Safeguards the health of people and communities;*

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

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

Objective WQUAL.2 - Lowland water bodies

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

⁸ RMA, section 2.

Objective 6 should be amended to read (my additions in **bold underlined** text):

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

- (a) maintained where the water quality is not degraded; and*
- (b) improved where the water quality is degraded by human activities.*

- 15 For completeness, I have considered whether this addition may place the pSWLP at risk of being considered a coastal plan. I am satisfied that mere mention of coastal waters in the pSWLP would not do this. The purpose of including these coastal waters is to improve integrated management of land uses and freshwater that may impact on coastal waters, rather than including coastal provisions.

Objective 9/9A

- 16 The first Interim Decision proposed Objectives 9 and 9A be merged and amended as follows:⁹

The quantity of water in surface water bodies is managed so that:

- (a) ~~the~~ aquatic ecosystem health, life-supporting capacity, the values of outstanding natural features and landscapes, the natural character and historic heritage values of waterbodies and their margins are safeguarded;
- (b) there is integration within the freshwater quality objectives and values (including the safeguarding of human health for recreation); and
- (c) provided that (a) and (b) are met, surface water is sustainably managed, in accordance with Appendix K to support the reasonable needs of people and communities to provide for their economic, social and cultural wellbeing.

⁹ First Interim Decision, at para [156] and Annexure 1.

- 17 The outstanding matters with respect to Objective 9/9A are the meaning of “life supporting capacity” within the context of a water quantity objective and the content of sub-clause (b). The Court sought submissions and/or evidence relating to these matters in the first Interim Decision.¹⁰
- 18 The first Interim Decision at paragraph [136] notes that:
- We heard evidence that the term “life-supporting capacity” is unique to the RMA and is not a term used by ecologists who refer instead to ecosystem or ecological health.
- 19 The first Interim Decision goes on to state that the term is not defined under the higher order planning instruments, including the RMA, and provides commentary from two Environment Court cases¹¹ on the meaning of the term.
- 20 The content of sub-clause (b) is now subject to determination by the Court.¹²
- 21 I have discussed the usefulness of the term ‘life-supporting capacity’ with Mr Hodson, who gave evidence for Environment Southland on ecological health at the first hearing. He considers the terms to be rather overlapping, with life-supporting capacity possibly being a somewhat lesser standard. He noted that ecologists tend to discuss ecological health, rather than life supporting capacity, and the former term is used in publications and guidance material. In discussion we also noted that the Joint Witness Statement for Water Quality and Ecology uses the term ‘ecosystem health’.
- 22 Whether or not the term “life-supporting capacity” is useful, I note that in this Objective, “aquatic ecosystem health” is also to be safeguarded. While I do not consider the two terms to mean the same thing, I understand life-supporting capacity could be considered a lower standard than aquatic ecosystem health; and even if not, life-supporting capacity is likely to be compromised in the absence of aquatic ecosystem health. I am also of the view that this phrase

¹⁰ At paragraphs [140] & [157].

¹¹ *Director-General of Conservation v Invercargill City Council* [2018] NZEnvC 84 and *Lindis Catchment Group Incorporated v Otago Regional Council* [2019] NZEnvC 166

¹² Minute of 13 July 2020 at paragraph [17] and Memoranda of Counsel of 16 July 2020 at paragraph [3].

better accords with Te Mana o te Wai, in that it is more focussed on the hauora of the waterbody. Therefore, I am doubtful that both “life-supporting capacity” and “aquatic ecosystem health” are necessary to achieve the outcomes of this Objective. Overall, I recommend that the term “life-supporting capacity” be deleted from this Objective:

The quantity of water in surface water bodies is managed so that:
 (a) ~~the aquatic ecosystem health, life-supporting capacity, the values of outstanding natural features and landscapes, the natural character and historic heritage values of waterbodies and their margins are safeguarded;~~
 (b) ...
 (c) ...

Objective 9B

23 The first Interim Decision proposed the following amendments to Objective 9B:¹³

The importance of Southland’s regionally and nationally significant infrastructure is recognised and its sustainable and effective development, operation, maintenance and upgrading is enabled.

24 There are three unresolved issues with respect to Objective 9B. All three issues were set out in both the first Interim Decision¹⁴ and the Minute of 29 June 2020.¹⁵

25 First, the Court questions whether a definition of the term “regionally significant infrastructure” should be included in the pSWLP and the term “critical infrastructure”¹⁶ be deleted.¹⁷ In the Minute of 29 June 2020, the Court asks whether the planning witnesses agree with the amendments proposed by the Court in the first Interim Decision; being defining “regionally significant infrastructure” and deleting the term “critical infrastructure”.¹⁸

¹³ First Interim Decision, at paragraph [179] and Annexure 1.

¹⁴ At paragraph [183](iii).

¹⁵ At paragraph [10].

¹⁶ As set out in Objective 9B of the Decisions Version of the pSWLP.

¹⁷ At paragraphs [182] – [183].

¹⁸ At paragraph [10].

- 26 Second, in the first Interim Decision, the Court directed parties to file submissions that identified the resource management issues addressed by Objective 9B.¹⁹ In the 29 June 2020 Minute, the Court directs planners to confer and identify issues that the pSWLP seeks to address in relation to infrastructure and whether such issues should be identified in the plan, pursuant to Section 67(2)(a) of the RMA.²⁰
- 27 Third, in the first Interim Decision, the Court directed planning witnesses to respond to the Court’s proposition that properly constructed, Objective 9B is to be interpreted and applied in a manner that gives effect to Te Mana o te Wai and can be implemented in accordance with ki uta ki tai.²¹ The Minute of 29 June 2020 sought clarification on whether the planning witnesses, with reference to the Interpretation Statement,²² agree that Objective 9B, as proposed to be amended by the Court, gives effect to the RPS. The Court also asked whether the planning witnesses agreed “sustainable and effective” is concerned with both the infrastructure and the manner of development relative to the environment. If this was the case, the 29 June 2020 Minute asks whether the Court’s proposed wording is clear or is further change recommended.²³
- 28 With respect to the first outstanding issue, the first Interim Decision²⁴ sets out the definitions of “regionally significant infrastructure”²⁵, “nationally significant infrastructure”²⁶ and “critical infrastructure”²⁷ as provided by the RPS. The definition of regionally significant infrastructure includes critical infrastructure. The only other use of all

19 At paragraph [183].

20 At paragraph [9].

21 At paragraph [183].

22 Set out in the Second Interim Decision

23 At paragraph [8].

24 At para [181].

25 *Regionally significant infrastructure means infrastructure in the region which contributes to the wellbeing and health and safety of the people and communities of the region, and includes all critical infrastructure.*

26 *Nationally significant infrastructure means infrastructure which contributes to the development and wellbeing and health and safety of people and communities extending beyond the region.*

27 *Critical infrastructure means infrastructure that provides services which, if interrupted, would have a significant effect on the wellbeing and health and safety of people and communities and would require reinstatement, and includes all strategic facilities.*

three terms is in Policy 26A²⁸, noting that they are also defined, identically to the RPS, in the pSWLP. I am attracted to the simplicity of reference to nationally and regionally significant infrastructure in the objective, and given the definition of regionally significant infrastructure includes critical infrastructure, do not see any difference in outcomes.

- 29 In relation to the second matter, the Court has requested clarity about what resource management issues this Objective is addressing, and whether these should be included in the pSWLP. In my opinion, Issue INF.3 of the RPS provides a useful summary of the matters this Objective is focussed on. It states:

Issue INF.3

The provision of infrastructure and associated activities are important to enable people and communities to provide for their social, economic and cultural wellbeing, but, where not appropriately managed, can result in significant adverse effects on land use and the environment.

- 30 The issues discussion on pages [14] to [18] of the pSWLP addresses water quality, water quantity, soil resources, river and lake beds, and indigenous biodiversity, and are deliberately high-level discussions of the issues. Infrastructure is touched on, particularly in relation to water quantity and river and lake beds. I do not consider the issues raised by infrastructure to be sufficient to justify a separate discussion in the nature of the five topics listed earlier. However, the discussion could be expanded in the existing discussion in relation to river and lake beds, particularly to place more emphasis on the benefits to be derived from infrastructure. I consider the management of the potential adverse effects of infrastructure are thoroughly covered in the existing discussion of issues. I recommend the following changes to the final paragraph in the river and lake beds section on page [17] of the pSWLP:

²⁸ *Policy 26A—Infrastructure Recognise and provide for the effective development, operation, maintenance and upgrading of regionally significant, nationally significant and critical infrastructure in a way that avoids where practicable, or otherwise remedies or mitigates, adverse effects on the environment.*

Some of these activities can have positive effects on the natural environment, for example, bridges and culverts allow access across a river without disturbing the bed. Others, **such as infrastructure, are important to enable people and communities to provide for their** ~~have important~~ economic, **cultural,** and social **wellbeing benefits,** ~~for example, erosion control works protect community assets.~~ However, **these** activities ~~in the beds of rivers and lakes~~ can also have adverse effects on the environment, including generating sediment, disturbing habitat and preventing fish passage.

- 31 With respect to the third outstanding issue, the first Interim Decision²⁹ notes that the Decisions Version of Objective 9B, does not address infrastructure's integration with land use activities and the environment and does not give full effect to RPS Objective INF.1³⁰. This is reiterated in the Minute of 29 June 2020.³¹ In my opinion, the integration of infrastructure with land use is primarily a matter for a RPS, district plans and funding decisions, and is somewhat of a secondary issue for regional plans, which tend to be more focussed on the environmental effects of infrastructure and land uses, rather than their spatial location. On this basis, I am satisfied that the Objective does not need to specifically mention this, and the issue can be relooked at when Policy 26A is considered.
- 32 The Minute of 13 July 2020³² specifically asks if the planners agree "sustainable and effective" is concerned with both the infrastructure and secondly, the manner of its development relative to the environment? While I agree that "sustainable and effective" applies to all aspects of infrastructure, I do hold some concerns about use of the term "sustainable" in this context. While the Interpretation Statement and Objectives 1 and 2 provide some assistance, I consider that it is inevitable that future users of the pSWLP will refer up to section 5(2) of the RMA to interpret this Objective, which is unlikely to be helpful. While I have reflected on the wording of this

²⁹ At paragraph [177].

³⁰ Objective INF.1 – Southland's infrastructure

Southland's regionally significant, nationally significant and critical infrastructure is secure, operates efficiently, and is appropriately integrated with land use activities and the environment.

³¹ At paragraph [7].

³² At paragraph [8].

Objective, I am aware that some other planners have more considered opinions on how it could be reworded, which would be useful to explore with the hope to find a resolution in advance of conferencing.

Objective 13/13A/13B

33 The first Interim Decision proposed the following amendments to Objective 13:³³

Provided that:

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

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

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

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

34 The first Interim Decision seeks further submissions or evidence responding to the structure of Objective 13.³⁴ The Minute of 29 June 2020 then directs the planners to conference on the structure and wording of Objective 13 as proposed to be amended by the Court.³⁵

35 At paragraph [253] of the first Interim Decision, the Court states its approval of the proposed wording for sub-clauses (a) to (c) of Objective 13. Paragraphs [250] to [252] discusses the proposed structure of Objective 13, noting the:

...use and development of land and soils to enable wellbeing - as opposed to activities that depend on the resources - has greater resonance with Te Mana o Te Wai and ki uta ki tai than the alternatives proposed.

³³ First Interim Decision, at [253] and Annexure 1.

³⁴ At paragraph [254].

³⁵ At paragraph [13].

36 On that basis, it would appear that the primary issue to be resolved is the wording to go around the three sub-clauses, taking into account the above alignment with Te Mana o te Wai and ki uta ki tai. As is identified in the first Interim Decision,³⁶ the three sub-clauses are to be satisfied before the use and development of land and soils is enabled. The sub-clauses, being in the nature of preconditions, may encourage their placement as the first parts of the Objective. However, it is an atypical structure for an objective, which would normally be in the nature of: 'positive statement'... provided that... 'conditions are met'. The Objective could be re-worded that way, but there may be a question as to whether it loses some of its emphasis on the preconditions. If that was a concern, it could be reduced by further strengthening the term 'provided that' by use of a phrase such as 'only so far as' or 'only if' or 'without compromising'. On this basis, a reworded objective (without any change to 'provided that' at this time) could be:

Land and soils are used and developed to enable the economic, social and cultural wellbeing of the region provided that:

- (a) *the quantity, quality and structure of soil resources are not irreversibly degraded through land use activities or discharges to land; and*
- (b) *the health of people and communities is safeguarded from the adverse effects of discharges of contaminants to land and water; and*
- (c) *ecosystems (including indigenous biological diversity and integrity of habitats), are safeguarded.*

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

37 The Court also noted, at [245] of the first Interim Decision, a lack of analysis of higher order planning documents. The relevant objectives and policies of the RPS are set out in Annexure 2, and after considering this Objective in the context of the RPS Objectives and Policies, it is my opinion that this Objective gives effect to the RPS.

³⁶

At paragraphs [251] – [252].

Objective 14

- 38 The first Interim Decision confirmed the decisions version of Objective 14:³⁷

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

- 39 The first Interim Decision identified a question around use of the term “life supporting capacity”,³⁸ which was followed up with “Further to paragraph [259] of the first Interim Decision, the planners will be directed to conference on the retention of “life-supporting capacity” in this Objective”³⁹ in the Minute of 13 July 2020.
- 40 This discussion overlaps with the discussion above in relation to Objective 9/9A. Similar to the discussion on Objectives 9/9A, again I question whether or not the term “life-supporting capacity” is useful in this Objective.
- 41 I acknowledge comments made by the Court in the first Interim Decision in relation to provisions being cumbersome.⁴⁰ In my opinion, Objective 14 is presently at risk of being so. With this in mind, the inclusion of both “life-supporting capacity” and reference to ecosystem “types” are possibly unnecessary words. The term “types” used in reference to “ecosystems” is not a term used elsewhere in the pSWLP and it is likely to create confusion for plan users when implementing the pSWLP.
- 42 I consider Objective 14 could also benefit from a slight amendment to strengthen the relationship and emphasis placed on “hauora” in Objective 2 as set out in the second Interim Decision.⁴¹ In my opinion, this is important in relation to the margins of rivers, estuaries, wetlands and lakes, and this would accord with section 5(2)(b) of the

³⁷ First Interim Decision, in Annexure 1.

³⁸ At paragraph [259].

³⁹ At paragraph [14].

⁴⁰ At paragraph [135].

⁴¹ At paragraph [14].

RMA. Accordingly, I recommend the Objective be amended as follows:

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

Objective 17

- 43 The first Interim Decision proposed the following amendments to Objective 17:⁴²

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

- 44 The first Interim Decision directed parties to respond to the Court's discussion on Objective 17 and whether the intent of the Objective is to address natural character values that are significant to the region.⁴³ At paragraph [279], parties are invited "to consider limiting the values to be preserved to those that are of regional significance, and in doing so provide substantive direction on the outcome." The Minute of 29 June 2020 directs planners to conference and respond to the issues raised in the first Interim Decision, to consider the direction given in the RPS on the subject matter and whether the amendments proposed by the Court responds appropriately. If agreement with the Court's position is reached, the Minute of 29 June 2020 also asks whether the values of significance are identified in the pSWLP and if there is scope available under any appeal for their inclusion.⁴⁴
- 45 Further issues raised with respect to Objective 17 in the first Interim Decision include:

⁴² First Interim Decision, at paragraph [279] and Annexure 1.

⁴³ At paragraph [280].

⁴⁴ At paragraph [15].

- (a) Addressing the provision within the context of the higher order planning documents.⁴⁵
- (b) The pSWLP does not appear to identify what natural character values are of value and therefore what is to be protected.⁴⁶
- (c) The distinction between “preserve” and “protect” in the context of natural character.⁴⁷

46 The Court, in its first Interim Decision, has provided a substantial discussion in relation to the issues set out above.⁴⁸ In understanding the importance of Objective 17, the Court refers back to the Section 32AA Report which highlights that Objective 17 is one of four objectives in the pSWLP that specifically addresses wetlands.⁴⁹

47 In addressing the provision within the context of the higher order planning documents, the first Interim Decision notes that Objective 17 accords with NPS-FM Objective B4⁵⁰ and refers to relevant policies⁵¹ in the NZCPS, specifically Policy 13, which describes the meaning of “natural character” in the context of the NZCPS.⁵² A number of relevant objectives and policies from the RPS⁵³ are also set out. The Court considers at paragraph [273] that *“the higher order planning documents, expand to some degree, on what is to be protected.”* It is ultimately considered in paragraph [279] that Objective 17, *“simply reinstates provision in the higher order instruments without particularly advancing the same.”*

48 In terms of issue (b) above, it is understood the inclusion of “that are of significance to the region” in the proposed amendment to Objective 17, is intended to remedy the issues relating to the identification and therefore preservation of natural character values. In paragraph [279]

45 At paragraph [264].

46 At paragraph [277].

47 At paragraph [279].

48 At paragraphs [260] – [290].

49 Others being Objective 1, 3 and 14.

50 Objective B4:

To protect significant values of wetlands and of outstanding freshwater bodies.

51 Including policies 11, 14 and 15.

52 At paragraphs [265] – [268].

53 Including Objectives WQUAL.2 and BRL.1 and Policies WQUAL.3 and WQUAN.1.

of the first Interim Decision the Court directs parties “to consider limiting the values to be preserved to those that are of regional significance, and in doing so provide substantive direction on the outcome.” However, I am concerned that the proposed addition of this limitation is at odds with the more encompassing direction of the higher order planning instruments and Te Mana o Te Wai. In particular, I note that section 6(a) is not constrained in its application to only natural character values that are of significance. The definition of “natural character values” in the pSWLP is all encompassing⁵⁴ and not limited to values that are of significance to the region. To limit the application of Objective 17 to only preserving natural character values where they are “of significance to the region” is unclear in the wider context of the pSWLP and would require plan users and the Regional Council to determine whether natural character values are of significance to the region through either specification of a significance criteria in the pSWLP or case-by-case through the resource consent process. There is potential to provide greater guidance on the application of this Objective through improvement of Policies 18, 20, 28, and 33. However, addition of significance criteria would be a substantial change, noting that the RPS has a significance criteria for matters subject to section 6(c) of the RMA⁵⁵ that occupies a full page of text, and in my opinion, is sufficiently encompassing that it has the effect of the majority of indigenous vegetation and habitats being considered ‘significant’.⁵⁶ In the absence of such a criteria, I recommend Objective 17 be amended to:

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

⁵⁴ At paragraph [276].

⁵⁵ Section 6(c): *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna*

⁵⁶ See Appendix 3: Significance Assessment Criteria of the Southland RPS at page 283 and attached as Annexure 3.

Objective 18

49 The first Interim Decision of the Court proposed the following amendments to Objective 18:⁵⁷

All persons will demonstrate improved land use and water management practice.

50 The first Interim Decision notes the substantial discussion on this Objective and differing opinions as to how it should be worded and what outcomes it is seeking.⁵⁸ That decision, and the subsequent Minutes,⁵⁹ confirm that the Court is seeking clarity and agreement on what the Objective is seeking to achieve.

51 The Court notes that “good management practice” and “best practical option” narratives are best left for policy at paragraph [17] of the Minute of 29 June 2020. The Court also reminds planners about good objective drafting techniques and to avoid paraphrasing other objectives or cumbersome wording.⁶⁰

52 In the Reporting Memorandum of 10 July 2020, Meridian records its concerns that the Objective is a significant departure from the Decisions Version, and that it “appears not to contemplate that some existing land uses and water management practices will be efficient, and it considers that it would be unreasonable and unnecessary to require those uses and practices to change.”⁶¹

53 In the Minute of 13 July 2020, the Court again requests guidance on the outcome that the Objective is seeking to achieve and notes the element of behaviour change that appears to be sought.⁶²

54 In evidence and during questioning from the Court in the first hearing, I confirmed my view that Objective 18 should be forthright about its expectations for behaviour change, and apply to all people. At that time, I spoke of the need for it to act as a buttress at the end of the

⁵⁷ First Interim Decision, in Appendix 1.

⁵⁸ At paragraphs [281] – [290].

⁵⁹ Minute of 29 June 2020 at paragraph [18] and Minute of 13 July 2020 at paragraphs [11] and [12].

⁶⁰ At paragraph [18].

⁶¹ At paragraph [64].

⁶² At paragraph [11].

objectives, reflecting the change in approach inherent in Objectives 1 and 2. Those views have not changed, but I now consider there are two options available:

- (a) First, the clarity of emphasis on Objectives 1 and 2 may now adequately explain the paradigm shift⁶³ required of all people in the use and management of natural resources in Southland. If that were accepted, Objective 18 is likely now redundant.
- (b) Second, provided it was accepted that Objective 18 remains of value, it needs to be modified to more clearly explain expectations and outcomes. In this, I consider the discussion in the first Interim Decision at [288] useful, in that it should confirm to whom the Objective applies, what is expected and why. Further, in my opinion there is an opportunity to clearly link Objective 18 to the concepts behind Objectives 1 and 2. If this second option were chosen, I would recommend Objective 18 be reworded to:

*All persons ~~will demonstrate~~ **uphold Te Mana o te Wai and recognise ki uta ki tai by demonstrating** improved land use and water management practices.*

Policy 3

55 The first Interim Decision proposed the following amendments to Policy 3:⁶⁴

To manage activities that adversely affect taonga species, identified in Appendix M, and their related habitats.

56 In the first Interim Decision, the Court noted that this wording is marginally adequate, and could only be useful if in the context of ki uta ki tai and Te Mana o te Wai. If not to be interpreted in the context of ki uta ki tai and Te Mana o te Wai, then more fulsome wording articulating how the outcomes are to be provided is required.⁶⁵

⁶³ First Interim Decision at paragraph [9].

⁶⁴ First Interim Decision, in Appendix 1.

⁶⁵ At paragraph [326].

- 57 The Minute of 29 June 2020 requested comment, including on scope. The Reporting Memoranda of 10 July 2020 responds at some length at [37] to [40], with a range of views.
- 58 The Minute of 13 July 2020 refines the issues at large to two matters:
- 59 Firstly, at [14] the Minutes states: “The court had in mind whether there is scope to include a list of taonga species (at least) in the plan by way of a method.” I can confirm that such a list exists in the pSWLP, in Appendix M. The list is simply of bird, plant and freshwater fish and shellfish species – no outcomes are specified in Appendix M.
- 60 Secondly, at [15] the Minute states: “While the court was not contemplating any change to Objective 15 or Policy 3, Forest & Bird/Fish & Game say there may be scope under their appeals to expressly draw the link in Policy 3 between habitat of taonga species and hauora.” I have briefly spoken with Mr Farrell, planning witness for Forest & Bird/Fish & Game, who commented that Policy 3 may be an appropriate place to provide a linkage to cultural indicators of health, should the Topic B process determine that such indicators should be included in the pSWLP. I agree that should cultural indicators of health be incorporated into the pSWLP via the Topic B process, a policy linkage will need to be considered at the time, and Policy 3 may be an option for that.
- 61 Therefore, at this time, I do not recommend any further change to Policy 3.

Physiographic Zone Policies

- 62 As the Policies are lengthy, they are not set out in full here.
- 63 There are four unresolved issues with respect to the physiographic zone policies.
- 64 First, the first Interim Decision seeks confirmation on whether ‘dairy farming of cows’ is intended.⁶⁶

⁶⁶ At paragraph [305]

- 65 Second, the first Interim Decision seeks confirmation of whether the Physiographic zone policies are to apply only to farming, and in which case the heading could usefully be changed.⁶⁷
- 66 Third, the first Interim Decision⁶⁸ and the Minute of 29 June⁶⁹ seek views as to whether the physiographic zone policies should be expressed as risk-based or effects-based policies. The parties responded with differing views in the Reporting Memorandum of 10 July 2020⁷⁰.
- 67 Fourth, in the Reporting Memorandum of 10 July 2020, an issue was noted with respect to the ‘avoid where practicable’ wording, and the potential for a gap in guidance if avoidance was not practicable.⁷¹
- 68 With respect to the first item (confirmation on whether ‘dairy farming of cows’ was intended) it is my opinion that dairy farming, as it was envisaged by this policy is in respect of cows, rather than goats, sheep or some other species being milked. On reflection, there is a risk that the narrower definition of ‘dairy farming of cows’⁷² would mean that other normal parts of a dairy farming operation, such as the raising of young stock (calves and heifers) or rotations of land temporarily used for cropping, or even those parts of the year outside the milking season, could be argued to be excluded from application of these policies. On that basis, I would prefer that the policies used ‘dairy farming’, as per the Decisions Version, acknowledging that the policies would then apply to the dairy farming of other species. However, I note that as those activities typically result in lower contaminant losses than dairy farming of cows, these policies are less likely to be a constraint.
- 69 With respect to the second item, the Reporting Memorandum of 10 July 2020 records at [48]:

While it is noted that the Court has not sought a response on this point, Forest & Bird and Fish & Game, Ngā

67 At paragraphs [310] and [320]

68 At paragraph [300]

69 At paragraph [22]

70 At paragraphs [41] to [47]

71 At paragraph [49]

72 *Dairy farming of cows - The farming, including grazing, of milking cows on land during the milking season.*

Rūnanga, and the Council wish to address the heading to Policies 4-12. At paragraph [320] of the First Interim Decision, the Court states “[s]ubject to confirmation that the policies apply only to farming activities, amend the heading to Policies 4- 12 to read ‘Physiographic Zone Policies for Farming Activities.’” Forest & Bird and Fish & Game, Ngā Rūnanga, and the Council consider that the Physiographic Zone Policies do not only apply to farming activities, notwithstanding that they do focus on farming. To narrow these policies to only apply to farming activities may create a gap in the Plan for other types of discharges, such as those from industrial activities. Counsel for the Council notes that the Council’s current interpretation and implementation of these policies is that they apply to all activities, not just farming activities.

70 In my responses to questions during the first hearing, I had indicated that the majority of circumstances when these policies would apply, would be in relation to farming. I do consider that they are useful for considering other discharges, such as industrial and wastewater discharges. Upon reviewing the appeals on policies related to such other discharges, it would appear that inserting reference to physiographic zones into those policies would not be within the scope of any appeals. Therefore, I do not support narrowing the physiographic zone policies to just farming activities by adjusting the heading, as consideration of physiographic zones would effectively be excluded when assessing industrial and wastewater discharges.

71 The third item in the list above is now subject to determination by the Court.⁷³

72 Finally, at [49] of the Reporting Memoranda of 10 July 2020, it is noted that:

An additional matter that the Council wishes to raise is the use of the words “where practicable” in the first limb of the Physiographic Zone Policies. The Council considers that this introduces uncertainty, and the policies do not provide

⁷³ Minute of 13 July 2020 at paragraph [17] and Memoranda of Counsel of 16 July 2020 at paragraph [3].

guidance if the avoidance is not practicable. The Council suggests that the planners discuss this wording at expert conferencing, with a view to assisting the implementation of the policies, but without changing the intent (as set out at paragraph [304] of the First Interim Decision).

73 In my experience 'avoid where practicable' may lead to difficulties in implementation, for the reasons outlined in the Reporting Memorandum. I suggest an expansion of this phrase to provide a more clarity and fill the potential gap if avoidance is considered to not be practicable.

74 On this basis, I recommend the chapeau to each policy read:

In the YYY physiographic zone, avoid ~~where practicable~~, as a first priority, risk to water quality from contaminants, and where avoidance is impractical, requiring risk to water quality from contaminants to be minimised by:...

75 I recommend the second or third subclause to Policies 5, 10, 11 and 12 be amended to read:

avoid dairy farming ~~of cows~~ and intensive winter grazing where contaminant losses will increase as a result of a proposed activity.

DATED this 20th day of July 2020



.....
Matthew McCallum-Clark

Annexure 1: Consolidated Tracked Changes

Note: Tracked changes shown are those of Matthew McCallum-Clark only – the objectives and policies are otherwise shown as if the Court’s Interim Decision tracked changes are ‘accepted’.

Objective 6	<p>Water quality in each freshwater body, <u>coastal lagoon and estuary</u> will be:</p> <ul style="list-style-type: none"> (a) Maintained where the water quality is not degraded; and (b) Improved where the water quality is degraded by human activities.
Objective 9/9A	<p>The quantity of water in surface water bodies is managed so that:</p> <ul style="list-style-type: none"> (a) the aquatic ecosystem health, life-supporting capacity, the values of outstanding natural features and landscapes, the natural character and historic heritage values of waterbodies and their margins are safeguarded; (b) there is integration within the freshwater quality objectives and values (including the safeguarding of human health for recreation); and ¹ (c) provided that (a) and (b) are met, surface water is sustainably managed, in accordance with Appendix K to support the reasonable needs of people and communities to provide for their economic, social and cultural wellbeing.
Objective 9B	<p>Issues: Page 17:</p> <p>Some of these activities can have positive effects on the natural environment, for example, bridges and culverts allow access across a river without disturbing the bed. Others, <u>such as infrastructure, are important to enable people and communities to provide for their</u> have important economic, <u>cultural</u>, and social wellbeing benefits, for example, erosion control works protect community assets.</p> <p>However, <u>these</u> activities in the beds of rivers and lakes can also have adverse effects on the environment, including generating sediment, disturbing habitat and preventing fish passage.</p>

¹ Content of this sub-clause is subject to a final decision of the Court.

	Objective 9B – to be determined
Objectives 13, 13A and 13B	<p><u>Land and soils are used and developed to enable the economic, social and cultural wellbeing of the region</u> provided that:</p> <p>(a) the quantity, quality and structure of soil resources are not irreversibly degraded through land use activities or discharges to land; and</p> <p>(b) the health of people and communities is safeguarded from the adverse effects of discharges of contaminants to land and water; and</p> <p>(c) ecosystems (including indigenous biological diversity and integrity of habitats), are safeguarded.</p> <p>then land and soils are used and developed to enable the economic, social and cultural wellbeing of the region</p>
Objective 14	The range, health and diversity of indigenous ecosystems s-types and habitats within rivers, estuaries, wetlands and lakes, including their margins, and their life-supporting capacity are maintained or enhanced.
Objective 17	Preserve the natural character values of wetlands, rivers, lakes and their margins, including channel and bed form, rapids, seasonably variable flows and natural habitats that are of significance to the region , and protect them from inappropriate use and development.
Objective 18	All persons will demonstrate <u>uphold Te Mana o te Wai and recognise ki uta ki tai by demonstrating</u> improved land use and water management practices.
Policy 3 – Ngāi Tahu ki Murihiku taonga species	To manage activities that adversely affect taonga species, identified in Appendix M, and their related habitats.
Policy 4 – Alpine	In the Alpine physiographic zone: ² <ol style="list-style-type: none"> 1. avoid where practicable, <u>as a first priority</u>, risk to water quality from erosion and contaminants, <u>and where</u>

² Whether 'risk' or 'effects'-based policies is subject to a final decision of the Court – only risk-based shown for simplicity.

	<p><u>avoidance is impractical, requiring risk to water quality from contaminants to be minimised</u> by:</p> <ul style="list-style-type: none"> i. identifying contaminant pathways to ground and surface water bodies; ii. requiring implementation of good management practices to manage erosion and adverse effects on water quality from contaminants transported via overland flow; iii. having particular regard to adverse effects of contaminants transported via overland flow when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and <p>2. prohibiting dairy farming and intensive winter grazing and avoiding cultivation where contaminant losses will increase as a result of the proposed activity.</p>
<p>Policy 5 – Central Plains</p>	<p>In the Central Plains physiographic zone:</p> <ul style="list-style-type: none"> 1. avoid where practicable, <u>as a first priority</u>, risk to water quality from contaminants, <u>and where avoidance is impractical, requiring risk to water quality from contaminants to be minimised</u> by: <ul style="list-style-type: none"> i. identifying contaminant pathways to ground and surface water bodies; ii. requiring implementation of good management practices to manage adverse effects on water quality from contaminants transported via artificial drainage and deep drainage; iii. having particular regard to adverse effects on water quality from contaminants transported via artificial drainage and deep drainage when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and

	<p>2. avoid dairy farming of cows and intensive winter grazing where contaminant losses will increase as a result of the proposed activity.</p>
<p>Policy 6 – Gleyed</p>	<p>In the Gleyed physiographic zone avoid where practicable, as a first priority, risk to water quality from contaminants, <u>and where avoidance is impractical, requiring risk to water quality from contaminants to be minimised</u> by:</p> <ol style="list-style-type: none"> 1. identifying contaminant pathways to ground and surface water bodies; 2. requiring implementation of good management practices to manage adverse effects on water quality from contaminants transported via artificial drainage, and overland flow where relevant; and 3. having particular regard to adverse effects on water quality from contaminants transported via artificial drainage, and overland flow where relevant when assessing resource consent applications and preparing or considering Farm Environmental Management Plans.
<p>Policy 7 - Bedrock/Hill Country and Lignite-Marine Terraces³</p>	<p>In the Bedrock/Hill Country and Lignite-Marine Terraces physiographic zone avoid where practicable, as a first priority, risk to water quality from contaminants, <u>and where avoidance is impractical, requiring risk to water quality from contaminants to be minimised</u> by:</p> <ol style="list-style-type: none"> 1. identifying contaminant pathways to ground and surface water bodies; 2. requiring implementation of good management practices to manage adverse effects on water quality from contaminants transported via artificial drainage, and overland flow where relevant; and 3. having particular regard to adverse effects on water quality from contaminants transported via artificial drainage, and overland flow where relevant when assessing resource

³ Lignite Marine Terraces deleted from this Policy, as this zone is addressed by Policy 8.

	<p>consent applications and preparing or considering Farm Environmental Management Plans.</p>
<p>Policy 8 – Lignite-Marine Terraces</p>	<p>In the Lignite-Marine Terraces physiographic zone avoid where practicable, as a first priority, risk to water quality from contaminants, and where avoidance is impractical, requiring risk to water quality from contaminants to be minimised by:</p> <ol style="list-style-type: none"> 1. identifying contaminant pathways to ground and surface water bodies; 2. requiring implementation of good management practices to manage adverse effects on water quality from contaminants transported via artificial drainage, and overland flow where relevant; and 3. having particular regard to adverse effects on water quality from contaminants transported via artificial drainage, and overland flow where relevant when assessing resource consent applications and preparing or considering Farm Environmental Management Plans.
<p>Policy 9 – Old Mataura</p>	<p>In the Old Mataura physiographic zone:</p> <ol style="list-style-type: none"> 1. avoid where practicable, as a first priority, risk to water quality from contaminants, and where avoidance is impractical, requiring risk to water quality from contaminants to be minimised by: <ol style="list-style-type: none"> i. identifying contaminant pathways to ground and surface water bodies; ii. requiring implementation of good management practices to manage adverse effects on water quality from contaminants transported via deep drainage; iii. having particular regard to adverse effects on water quality from contaminants transported via deep drainage when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and

	<p>2. avoid dairy farming of cows and intensive winter grazing where contaminant losses will increase as a result of a proposed activity.</p>
<p>Policy 10 – Oxidising</p>	<p>In the Oxidising physiographic zone:</p> <ol style="list-style-type: none"> 1. avoid where practicable, <u>as a first priority</u>, risk to water quality from contaminants, <u>and where avoidance is impractical, requiring risk to water quality from contaminants to be minimised</u> by: <ol style="list-style-type: none"> i. identifying contaminant pathways to ground and surface water bodies; ii. requiring implementation of good management practices to manage adverse effects on water quality from contaminants transported via deep drainage, and overland flow and artificial drainage where relevant; iii. having particular regard to adverse effects on water quality from contaminants transported via deep drainage, and overland flow and artificial drainage where relevant when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and 2. avoid dairy farming of cows and intensive winter grazing where contaminant losses will increase as a result of a proposed activity.
<p>Policy 11 – Peat Wetlands</p>	<p>In the Peat Wetlands physiographic zone:</p> <ol style="list-style-type: none"> 1. avoid where practicable, <u>as a first priority</u>, risk to water quality from contaminants, <u>and where avoidance is impractical, requiring risk to water quality from contaminants to be minimised</u> by: <ol style="list-style-type: none"> i. identifying contaminant pathways to ground and surface water bodies; ii. requiring implementation of good management practices to manage adverse effects on water quality from contaminants transported via artificial drainage, deep drainage, and lateral drainage;

	<ul style="list-style-type: none"> iii. having particular regard to adverse effects on water quality from contaminants transported via artificial drainage, deep drainage, and lateral drainage when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and <p>2. avoid dairy farming of cows and intensive winter grazing where contaminant losses will increase as a result of a proposed activity.</p>
<p>Policy 12 – Riverine</p>	<p>In the Riverine physiographic zone:</p> <ul style="list-style-type: none"> 1. avoid where practicable, as a first priority, risk to water quality from contaminants, <u>and where avoidance is impractical, requiring risk to water quality from contaminants to be minimised</u> by: <ul style="list-style-type: none"> i. identifying contaminant pathways to ground and surface water bodies; ii. requiring implementation of good management practices to manage adverse effects on water quality from contaminants transported via deep drainage, and overland flow where relevant; iii. having particular regard to adverse effects on water quality from contaminants transported via deep drainage, and overland flow where relevant when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and 2. avoid dairy farming of cows and intensive winter grazing where contaminant losses will increase as a result of a proposed activity.

Annexure 2: Southland RPS Objectives and Policies relevant to Objective 13

Chapter 3: Tangata Whenua	
Ob TW.5	Provision for Māori land and resources Māori are able to develop and use their land and resources and provide for their social, economic and cultural wellbeing, in a manner that is sustainable.
Chapter 4: Water	
Pol WQUAL.8	Preference for discharge to land Prefer discharges of contaminants to land over discharges of contaminants to water, where: <ul style="list-style-type: none"> a. a discharge to land is practicable; b. the adverse effects associated with a discharge to land are less than a discharge to water.
Chapter 5: Rural Land/Soils	
Ob RURAL.2	Life-supporting capacity of soils Safeguard the life-supporting capacity, mauri and health of soils in rural areas, and prevent or minimise soil erosion and sedimentation from land use soil disturbance.
Pol RURAL.1	Social, economic and cultural wellbeing Recognise that use and development of Southland's rural land resource enables people and communities to provide for their social, economic and cultural wellbeing. <i>This policy recognises that use and development of rural land resources through land-based activities such as farming, forestry, mineral extraction, energy generation, manufacturing/industry and tourism provide for the wellbeing of people and communities within Southland. Use and development of rural land resources through these activities must be undertaken in a way that promotes the sustainable management purpose of the Act.</i>
Pol RURAL.4	Loss of high value soils from productive use Avoid the irreversible loss of high value soils from productive use, through inappropriate subdivision, use and development.
Pol RURAL.5	Effects of rural land development The effects of rural land development shall be sustainably managed and land management practices encouraged so that:

	<ul style="list-style-type: none"> a. soil properties are safeguarded; b. soil erosion is minimised; c. soil compaction and nutrient and sediment loss is minimised; d. soil disturbance is reduced; e. water quality is maintained or enhanced; f. indigenous biodiversity is maintained or enhanced; g. the mauri of water and soils is safeguarded.
Pol RURAL.6	<p>Adverse effects of on-site wastewater systems</p> <p>Make provision for the use of on-site wastewater systems in rural areas, provided new systems are not located within a site which is culturally sensitive to tangata whenua and adverse effects, including cumulative effects, are avoided or mitigated.</p>
Chapter 6: Biodiversity	
Ob BIO.2	<p>Maintain and protect</p> <p>Maintain indigenous biodiversity in Southland and protect areas of significant indigenous vegetation and significant habitats of indigenous fauna for present and future generations.</p>
Pol BIO.2	<p>Protect significant areas</p> <p>Areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Southland region will be protected and, where appropriate, enhanced.</p>
Pol BIO.4	<p>Maintain indigenous biodiversity</p> <p>Manage a full range of indigenous habitats and ecosystems to achieve a healthy functioning state, and to ensure viable and diverse populations of native species are maintained, while making appropriate provisions for lawful maintenance and operation of existing activities.</p>
Chapter 11: Contaminated Land	
Ob 2 CONTAM.2	<p>Avoid, remedy or mitigate adverse effects</p> <p>Adverse effects on the environment (including human health) from contaminated land are avoided, remedied or mitigated.</p>
Pol CONTAM.2	<p>Management of contaminated land</p> <ul style="list-style-type: none"> a. Protect human health when undertaking activities on land that is potentially, or known to be, contaminated.

	b. Manage contaminated land to avoid, remedy or mitigate adverse effects on the environment.
Chapter 12: Hazardous Substances	
Ob HAZ.1	Protection of the environment (including human health and safety) Adverse effects on the environment (including human health and safety) from the storage, use, transportation and disposal of hazardous substances are prevented or mitigated.
Pol HAZ.7	New contaminated land Avoid to the extent practicable the creation of new contaminated land in Southland.
Chapter 13: Solid Waste	
Ob WASTE.2	Avoid, mitigate, or where appropriate remedy adverse effects Avoid, mitigate, or where appropriate remedy the adverse environmental effects of solid waste storage, disposal, processing, handling and transportation.
Pol WASTE.1	Adverse environmental effects Avoid, mitigate or where appropriate remedy the adverse environmental effects of solid waste storage, disposal, processing, handling and transportation through the development and use of appropriate rules and/or methods in regional and district plans including, but not limited to rules and/or methods on: <ul style="list-style-type: none"> a. location, such as proximity to sensitive receiving environments or historic heritage; b. operation, such as acceptable solid waste, leachate or dust management; and c. closing, such as site rehabilitation or monitoring.

Annexure 3: RPS Significance Criteria

Appendix 3: Significance Assessment Criteria

The purpose of the following criteria is to determine whether an area is significant in terms of Section 6(c) of the Resource Management Act 1991.

Although Appendix 2 includes a schedule of threatened, at risk and rare habitats, this is by no means definitive. Policy BIO.2 requires site-specific (on the ground) ecological assessments to verify the ecological significance of the Schedule in Appendix 2 and determine where there is the potential for activities and development to affect other areas of indigenous biodiversity that could be deemed to be significant indigenous vegetation or significant habitats of indigenous fauna.

An area is significant if it meets one or more of the criteria listed below.

(a) Representativeness

- (i) Indigenous vegetation or habitat of indigenous fauna that is representative, typical or characteristic of the natural diversity of the relevant ecological district or coastal biogeographic region. This can include degraded examples where they are some of the best remaining examples of their type, or represent all that remains of indigenous biodiversity in some areas.
- (ii) Indigenous vegetation or habitat of indigenous fauna that is a relatively large example of its type within the relevant ecological district or coastal biogeographic region.

(b) Rarity/Distinctiveness

- (i) Indigenous vegetation or habitat of indigenous fauna that has been reduced to less than 20% of its former extent in the Region, or relevant land environment, ecological district, freshwater environment, or coastal biogeographic region.
- (ii) Indigenous vegetation or habitat of indigenous fauna that supports an indigenous species that is threatened, at risk, or uncommon, nationally or within the relevant ecological district or coastal biogeographic region.
- (iii) The site contains indigenous vegetation or an indigenous species at its distribution limit within Southland Region or nationally.
- (iv) Indigenous vegetation or an association of indigenous species that is distinctive, of restricted occurrence, occurs within an originally rare ecosystem, or has developed as a result of an unusual environmental factor or combinations of factors.

(c) Diversity and Pattern

- (i) Indigenous vegetation or habitat of indigenous fauna that contains a high diversity of indigenous ecosystem or habitat types, indigenous taxa, or has changes in species composition reflecting the existence of diverse natural features or ecological gradients.

(d) Ecological Context

- (i) Vegetation or habitat of indigenous fauna that provides or contributes to: an ecological linkage, ecological corridor or network; buffering function; or ecosystem service.
- (ii) A wetland which plays an important hydrological, biological or ecological role in the natural functioning of a water body, including a river or coastal system, or springs, lakes and streams.
- (iii) Indigenous vegetation or habitat of indigenous fauna that provides important habitat (including, but not limited to, refuges from predation, or key habitat for feeding, breeding, or resting) for indigenous species, either seasonally or permanently.