

In the Environment Court of New Zealand
At Christchurch

I mua i te Kōti Taiao o Aotearoa
I te rohe o Ōtautahi

ENV-2025-CHC-

under: the Resource Management Act 1991

in the matter of: an appeal under clause 14 of Schedule 1 of the
Resource Management Act 1991

between: **Dairy Holdings Limited**
Appellant

and: **Waimakariri District Council**
Respondent

Notice of appeal by Dairy Holdings Limited against Waimakariri
District Council's decision on the proposed Waimakariri District
Plan

Dated: 22 August 2025

Reference: B G Williams (ben.williams@chapmantripp.com) / (ben.williams@al.nz)

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**NOTICE OF APPEAL BY DAIRY HOLDINGS LIMITED AGAINST
WAIMAKARIRI DISTRICT COUNCIL'S DECISION ON THE
PROPOSED SELWYN DISTRICT PLAN**

Clause 14(1) of Schedule 1, Resource Management Act 1991

To The Registrar
Environment Court
Christchurch

Introduction

- 1 Dairy Holdings Limited (*DHL*) appeals against part of the decision on the Proposed District Plan Hearing Panel, adopted by the Waimakariri District Council (*Council*) on the Proposed Waimakariri District Plan (*Proposed Plan*) (*Decision*).

DHL's interest in these proceedings

- 2 DHL made a submission on the Proposed Plan.¹
- 3 DHL is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (*RMA*).
- 4 DHL received notice of the Council's decision on 12 July 2025.
- 5 The parts of the decision that DHL is appealing are decisions on:
- 5.1 Ngā Tūranga Tūpuna overlay (SASM 014);
- 5.2 Ngā wai overlay (SASM 022);
- 5.3 natural character overlay NC-SCHED-1;
- 5.4 Waimakariri River ONF overlay;
- 6 The reasons for DHL's appeal are set out below.

Reasons for the appeal

- 7 DHL generally supports the Council's decision on the Proposed Plan, considers that this is appropriately enabling of day-to-day farming activities and particularly supports the proposed General Rural Zone rules.
- 8 DHL's principal concern with the Proposed Plan is the mapping of a number of different overlays over its properties, which DHL considers have been applied without sufficient investigation or consideration of the lawful activities occurring on that land. DHL is concerned that this will inappropriately constrain the ongoing use

¹ Submission dated 26 November 2021.

and upgrading of farming infrastructure on the affected land in the future.

- 9 In light of this position, DHL seeks the amendments to the overlays referred to above, relevant to its properties set out in **Appendix A**.
- 10 DHL considers that changes are necessary because the parts of the Council's Decision on the Proposed Plan referred to above do not accord with the relevant requirements of the RMA, and are contrary to Part 2 of the RMA.
- 11 In particular, those parts of the Decision:
 - 11.1 do not promote the sustainable management of natural and physical resources of the Selwyn District;
 - 11.2 do not appropriately enable social, economic and cultural well-being, meet the reasonably foreseeable needs of future generations, or safeguard the life-supporting capacity of water and ecosystems;
 - 11.3 do not promote the efficient use and development of natural and physical resources, especially those within Selwyn;
 - 11.4 do not result in the most appropriate plan provisions in terms of section 32 of the RMA;
 - 11.5 do not implement Council's functions under section 31 of the RMA; and
 - 11.6 are contrary to best resource management practice.
- 12 Without limiting the generality of the reasons above, DHL's specific reasons for its appeal points are set out below.
- 13 DHL sought amendments to two overlays relating to the Sites and Areas of Significance to Māori. DHL's submission notes:
 - 13.1 The Ngā Tūranga Tūpuna overlay (SASM 014) covers a large proportion of DHL's properties, cutting across paddocks and infrastructure without following any logical boundary.
 - 13.2 The proposed Plan states that this overlay applies to "*larger extents of land within which there is a concentration of wāhi tapu or taonga values, or which are of particular importance in relation to Ngāi Tūāhuriri cultural traditions, history or identity*".
 - 13.3 DHL questioned the appropriateness of imposing this overlay over such a large area of highly developed land, imposing additional constraints on landowners without greater

definition of the particular sites that this overlay seeks to protect.

- 13.4 DHL sought that this overlay is removed from its property, and more broadly that the basis for the overlay is revisited.
- 13.5 the Ngā wai overlay (SASM 022) relates to waterbodies but covers a large portion of developed land on both DHL's freehold and leasehold properties, which is not waterbody.
- 14 DHL also sought that the natural character overlay NC-SCHED-1 be amended, noting that this overlay similarly includes large areas of grazing land that is clearly not river.
- 15 Finally, DHL challenged the mapping of the Waimakariri River ONF, which similarly encapsulates tracks, shelter belts, areas of farmland and scrub/weeds.
- 16 DHL submitted that there were clear errors in this mapping, and sought that these overlays be removed from its freehold and leasehold land, or otherwise amended to not extend beyond the banks of the Waimakariri River. In the case of the ONF, DHL sought that the overlay be amended to exclude the developed pasture, tracks and shelter belts.
- 17 The Decision has been structured in such a way that it is difficult to locate any 'decision' on these submission points. The Report 1 Overview Report states:

70. The s42A Reports provide a comprehensive summary of submissions made on the PDP in respect of each hearing topic and the issues they raised in respect of the provisions of the PDP. The s42A Reports summarise the submission points and assess them under a series of headings that (following some introductory comments and background material) correspond to the key issues raised in submissions associated with the relevant chapter (or mapping content) of the PDP. To assist readers, we have generally structured our recommendation reports using that same format, unless we found it more appropriate to group issues or provisions together.

71. To avoid unnecessary repetition or duplication, we have adopted the approach of focusing our written analysis on those aspects of each s42A Report where:

(a) we disagreed with the reasoning and/or recommendations in the s42A Report.

(b) material provided to us by submitters, either in the form of evidence or representations, called into question the reasoning/recommendations in the s42A Report and/or (c)

the s42A report author, having considered the evidence or representations of submitters, having participated in any expert conferencing and production of joint witness statements, and following questioning from the Panel, altered their initial recommendations to us, as set out in their Reply Report.

72. If we do not refer to an individual submission or group of submissions on a particular matter addressed during the relevant hearing, or discuss the reasons for our recommendations in relation to it, that is because, having reviewed the submissions alongside the written and oral evidence and representations from submitters, any joint witness statements produced through expert conferencing and the commentary, recommendations and reasoning in the relevant s42A Report and associated Reply Report, we have accepted (and accordingly adopted) the s42A report author's final recommendations to us. This means that our recommendation reports must be read in conjunction with each relevant s42A Report and Reply Report. Those s42A Reports and Reply Reports are part of the public record and are available on the Council website. We acknowledge the information provided in the submissions which was considered in the report authors' advice to us in their s42A and Reply Reports.

73. Our recommendation reports, accordingly, take the form of an 'exceptions' report.

- 18 There is no general discussion or indication in the Report 1 of where decisions on mapping amendments are recorded. Appendix 2: (1) of Report 1 is titled "*PDP Mapping amendments recommendations summary*." However, there is no discussion of this appendix in the body of the report, and therefore no reasons provided.

Ngā Tūranga Tupuna (SASM 014) and Ngā wai overlay (SASM 022)

- 19 The Section 42A Report for Sites and Areas of Significance to Māori states (relevant to DHL's submission points):

Dairy Holdings Limited

126. The properties covered by overlays SASM 014 (Ngā Tūranga Tūpuna, ngahere manuka, The vast former manuka bush that occurred adjacent to the former course of the Waimakariri River') and SASM 022 (Ngā wai, Waimakariri River, and tributaries (ngā awa me ngā manga) with Mahinga Kai environs, habitats and taonga species) are shown in Figures 3 - 8 below from the Proposed Plan Planning Map.

127. Te Ngāi Tūāhuriri Rūnanga identified the SASM and provided that information (along with the extent of the feature) to the

Waimakariri District Council. In the absence of information from the submitter that SASM 014 and SASM 022 do not hold ngā tūranga tupuna (cultural landscape) and ngā wai (awa/water) values to Te Ngāi Tūāhuriri Rūnanga, then the feature cannot be altered. Refer to the discussion in paragraphs 121 – 124 of this s42A report with respect to the submission from Waimakariri Irrigation Limited.

- 20 The Decision in Report 4 that addresses Sites and Areas of Significance to Māori does not include any discussion regarding the mapping of these overlays, which appears to be outside the scope of the Report:

2. The report addresses the objective, policies, rules and other provisions relating to the Part 2: District-wide Matters – Historic and cultural values – SASM – Sites and Areas of Significance to Māori and the submissions received on those provisions.

The relevant provisions are:

- *Matters of Discretion and Control.*

- 21 DHL remains concerned that:

21.1 Mapping of extensive areas such as “vast former manuka bush” over private property, with associated rules and consenting implications, is not an appropriate resource management response;

21.2 The S42A reporting officer does not appear to have considered the appropriateness of the mapping of these overlays from a resource management perspective; and

21.3 The mapping concerns have not been addressed in the Decision.

Natural character overlay NC-SCHED-1

- 22 The Section 42A Report on Natural Character of Freshwater Bodies does not discuss DHL’s submissions regarding the overlay mapping on DHL’s property. It appears that DHL’s submissions in this respect have been missed.

- 23 Similar to the above, the Decision Report 9 does not appear to include mapping of schedules within its scope:

2. The report addresses the objective, policies and the advice note relating to the NATC – Natural Character of Freshwater Bodies

Chapter and the submissions received on those provisions. The relevant provisions are:

- *Introduction*
- *Objectives NATC-O1 to NATC-O3*
- *Policies NATC-P1 to NATC-P6*
- *Rules NATC-R1 – NATC-R10*
- *Standards NATC -S1 and NATC-S2*
- *Matters of Discretion NATC-MD1 – NATC-MD6.*

- 24 DHL remains concerned (especially in the context of the Waimakariri River ONF having been amended, discussed below) that the mapping of the Waimakariri River as a 'freshwater body' significantly exceeds any logical or reasonable extent of the River.

Waimakariri River ONF overlay

- 25 The Section 42A Report for Natural Features and Landscapes includes an Appendix D "*Waimakariri Overlay Reassessment Memo and Maps*". This document records, in table format, relevant to DHL's submissions:

25.1 *1047 [Thongcaster Road] - no overlap of ONF into this land parcel*

25.2 *1135A [Thongcaster Road] - boundary has been reassessed at a finer scale and now excludes a small sliver of developed land on the river side of the road.*

25.3 *1453 [Thongcaster Road] - boundary has been reassessed at a finer scale and amended to align more closely with the top of the river terrace, The steep terrace face and vegetated flood plain at it's base comprise the river margin and are integral to the ONF.*

25.4 *[369 Waimakariri Gorge Road] The ONF boundary has been reassessed at a finer scale and amended to align more closely with the edge of the river margin where it adjoins developed farm land. The amended ONF boundary excludes a strip of developed land adjacent to the river margin, and has been aligned using a combination of physical features - vegetation, fence lines and recently active riverbed margins.*

- 26 The Decision Report 1 includes in the Appendix 2 (1), once again in table format, the decision to amend the Waimakariri River Outstanding Natural Feature Overlay boundary at 1453 Thongcaster Road (RS 32897), 1135A Thongcaster Road (Lot 1 DP 44247), 1047

Thongcaster Road (Lot 2 DP 44248) and 369 Waimakariri Gorge Road (RS 19705), Oxford. PDP Panel. No reasoning is provided.

- 27 DHL considers that these amendments are generally appropriate, but continues to seek further refinement to more appropriately reflect the landforms and their relative values.

Relief

- 28 DHL seeks the following relief:

28.1 amendments to SASM 014, SASM 022, natural character overlay NC-SCHED-1 and Waimakariri River ONF overlay to remove the overlays from DHL's properties (or, in the alternative, remove the overlays from those areas that are developed farmland); and

28.2 any further or consequential changes necessary to address the matters set out in this notice of appeal.

Documents

- 29 The following documents are attached to this notice:

29.1 a copy of DHL's submission (**Appendix A**);

29.2 a copy of the relevant parts of the Decision (**Appendix B**);
and

29.3 a list of names and addresses of persons to be served with a copy of this notice (**Appendix C**).

Signed for and on behalf of Dairy Holdings Limited by its solicitors and authorised agents Chapman Tripp



Ben Williams
Partner
22 August 2025

Address for service of Dairy Holdings Limited until 29 August 2025:

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Address for service of Dairy Holdings Limited from 1 September 2025:

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Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must, -

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

How to obtain copies of documents relating to appeal

If the copy of this notice served on you does not attach a copy of the appellant's submission (or or) the decision (or part of the decision) appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.