

Supplementary Evidence | Dr. Helen Beattie

Decision of an Independent Decision Maker (10 July 2023)¹

1. I consider the recently published conclusion of Independent Decision Maker, Clare Lenihan (delegated authority for Environment Southland) that animal welfare *could* be considered when granting resource consents for winter grazing, is relevant to my submission.
2. Section 2 of the Resource Management Act 1991 states, '*natural and physical resources includes land, water, air, soil, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced), and all structures.*'²

BACKGROUND³

3. **In the Matter** of the Resource Management Act 1991 and **In the Matter** of the strike out application of a submission on a resource consent application by **Pahia Dairies Limited APP-20222765**, Lenihan *declined* to strike out the New Zealand Animal Law Association's (NZALA) submission and concluded;

*'that it is relevant to consider any consequential effects of the land use activity on the Applicant's animals (which **could** include animal welfare).'*

Application

4. 2.1 The Applicant applied to Environment Southland for consents to authorise the use of a piece of land known as "Browns Block" for dairy purposes, in particular:
 - 2.1.1 to expand a dairy farm by 95ha (with no increase in peak milking herd); and
 - 2.1.2 for intensive winter grazing of cattle on 55ha of crop on slopes over 10 degrees
 - 2.1.3 to discharge contaminant to land associated with intensive winter grazing.

NZALA Submission

5. The New Zealand Animal Law Association submitted (22nd March 2023) that the 'definition of "environment" includes cattle

*5. The purpose of the RMA is to promote the sustainable management of natural and physical resources.⁴ "Sustainable management" can be defined as avoiding or mitigating any adverse effects of activities on the environment.⁵ **The term "environment" is defined as including "all natural and physical resources", which includes cattle, given the definition***

¹ Decision on Strike Out Application - 10 July 2023

² Resource Management Act 1991

³ References are taken from 1 unless otherwise stated

encompasses “all forms of plants and animals” (emphasis added).⁶ When the courts have determined animals do not fall under the definition of “environment”, it has been regarding activities that were already regulated under other regulatory regimes and not regulated or controlled under the RMA.⁷ By contrast, intensive winter grazing is regulated and controlled under the RMA and its secondary legislation.⁸ Therefore, NZALA submits that the Authority must consider the potential adverse effects of the proposed intensive winter grazing on the cattle before approving this application.

6. *The NZALA also noted that ‘Section 331B of the Act was incorporated in 2023 by the Severe Weather Emergency Legislation Act 2023 and expressly allows for consideration of the well-being of animals. Although relevant provisions will be automatically repealed in April 2024, this indicates animal welfare considerations are not outside the ambit of the Act.’*

Decision

7. *11.2 I also agree with NZALA that while the term “animal welfare” is not specifically captured in the Act, a lack of direct legislative reference does not automatically exclude its consideration in the course of decision-making.⁴² “Animals” are part of the natural and physical resources covered by the Act. The Act also mentions “animals” numerous times, and specifically requires applicants to provide information about any adverse effects of activities on animals. A recent amendment to the RMA now specifically includes wellbeing of animals.*
8. *11.5 For the above reasons, I do not consider the high threshold for striking out a submission has been met for either ground advance by the Applicant. **It is finely balanced, but I conclude that it is relevant to consider any consequential effects of the land use activity on the Applicant’s animals (which could include animal welfare)** (emphasis added). Even if I am wrong to conclude it is relevant to consider this, I think the NZALA submission is broad enough in scope to include e.g. effects of intensive winter grazing including pugging, which also affects water quality, and therefore it is within scope.*