

**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

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

MERIDIAN ENERGY LIMITED
(ENV-2018-CHC-38)

FEDERATED FARMERS OF NEW ZEALAND
(ENV-2018-CHC-40)

**TE RUNANGA O NGAI TAHU, HOKONUI RUNAKA,
WAIHOPAI RUNAKA, TE RUNANGA O AWARUA & TE
RUNANGA O ORAKA APARIMA**
(ENV-2018-CHC-47)

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**MEMORANDUM OF COUNSEL FOR SOUTHLAND REGIONAL COUNCIL
7 September 2018**

Judicial Officer: Judge Hassan and Judge Borthwick

**WYNN WILLIAMS
LAWYERS
CHRISTCHURCH**

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**ROYAL FOREST AND BIRD PROTECTION SOCIETY
OF NEW ZEALAND
(ENV-2018-CHC-50)**

Appellants

AND

SOUTHLAND REGIONAL COUNCIL

Respondent

MAY IT PLEASE THE COURT

- 1 This Memorandum of Counsel is filed on behalf of the Southland Regional Council (**Council**) in respect of the appeals against the Council's decision on the proposed Southland Water and Land Plan (**pSWLP**).
- 2 This Memorandum addresses the issue of the standing of the Waiau Rivercare Group and the Waiau River Liaison Committee under section 274 of the Resource Management Act 1991 (**RMA**) in accordance with the Court's Minute dated 20 August 2018.
- 3 Counsel has received the legal submissions and supporting affidavit filed on behalf of the Waiau Rivercare Group dated 31 August 2018.
- 4 Counsel has also received the legal submissions and supporting affidavit on behalf of the Waiau River Liaison Committee dated 31 August 2018.
- 5 The Council's position, as stated in the Memorandum of Counsel dated 17 July 2018, is that on the face of their section 274 Notices, the Waiau Rivercare Group and Waiau River Liaison Committee did not appear to meet the tests to join the pSWLP appeals, as set out in section 274 of the RMA.¹
- 6 Counsel relies on its Memorandum dated 17 July 2018 in relation to the legal tests to meet section 274 of the RMA. Counsel notes that the law in relation to section 274 of the RMA is largely agreed as between the Council, the Waiau River Liaison Committee, and the Waiau Rivercare Group.
- 7 As to the application of the legal tests to the standing of the Waiau Rivercare Group and the Waiau River Liaison Committee, aside from bringing the matter to the attention of the Court, Counsel did not express any views as to whether or not these parties would be able to meet the legal tests by reasons not stated in their section 274 notices.
- 8 It was also noted that the Terms of Reference for the Waiau River Liaison Committee do not extend to being involved in planning appeals.²

¹ Memorandum of Counsel for the Southland Regional Council dated 17 July 2018 at [20] and [29].

² Memorandum of Counsel for the Southland Regional Council dated 17 July 2018 at [28].

- 9 A copy of the Terms of Reference for all of the Council's River Liaison Committees is attached as Exhibit C to the Affidavit of Peter Horrell in support of s274 notices lodged (Waiau River Liaison Committee) dated 31 August 2018.
- 10 The functions of the River Liaison Committees, as set out in the Terms of Reference, include (among other things):
- 1.2 That the purpose of liaison committees be to assist the Council to maintain better communications between the Council and ratepayers generally.
 - 1.3 That the Council meet formally with each liaison committee on at least an annual basis to receive expressions of opinion and give such explanations as may be requested.
 - ...
 - 1.6 That all liaison committees hold an annual general meeting of ratepayers at an appropriate time, the meeting to be publicly advertised and an election by ratepayers be held to confirm membership of the committees.
- 11 The Terms of Reference do not contain any express provision for the Waiau River Liaison Committee to become involved in planning appeals. Its functions are limited to providing for more effective communication between the Council and the ratepayers of the region. The method for this communication is also specified by the Terms of Reference, being by way of formal meetings between the Council and Liaison Committee, which are held at least annually.
- 12 Further, the Terms of Reference do not delegate any authority to the River Liaison Committees, and explicitly state that the Committees must "not make decisions on the Council's behalf".

- 13 Ultimately, the Council takes a neutral position on this issue and respectfully abides the decision of the Court in relation to the standing of the Waiau River Liaison Committee and the Waiau Rivercare Group to join the pSWLP appeals under section 274 of the RMA.

DATED this 7th day of September 2018



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P A C Maw / K J Wyss
Counsel for the Southland Regional Council