

**BEFORE THE ENVIRONMENT COURT  
I MUA I TE KOOTI TAIAO O AOTEAROA**

**UNDER** the Resource Management 1991

**IN THE MATTER** of 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)

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**APPLICATION FOR WAIVERS AND DIRECTIONS BY THE SOUTHLAND  
REGIONAL COUNCIL  
25 January 2019**

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Judicial Officer: Judge Hassan and 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 Act 1991**  
(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, SOUTHLAND  
PLANTATION FOREST COMPANY OF NZ,  
SOUTHWOOD EXPORT LIMITED**  
(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**

## APPLICATION FOR WAIVER OR DIRECTIONS

*Section 281, Resource Management Act 1991*

**To** The Registrar  
Environment Court  
Christchurch

and

**To** The Parties

### Proceedings

- 1 The Southland Regional Council (**Council**) applies for various waivers and directions pursuant to section 281 of the RMA in respect of the appeals against the Council's decision on the proposed Southland Water and Land Plan (**pSWLP**).<sup>1</sup>
- 2 The Council is the Respondent in the proceedings.

### Waiver or directions

- 3 The Council seeks the following waivers and directions in relation to the filing and service of evidence relating to these proceedings.
  - (a) A direction that, unless hard copies are subsequently required to be filed and/or served by the Court, all evidence (evidence-in-chief and rebuttal) relating to the appeal filed by any party may be:
    - (i) Filed electronically with the Environment Court by email to [christine.mckee@justice.govt.nz](mailto:christine.mckee@justice.govt.nz); and
    - (ii) Served electronically on the Council by email to [waterlandappeals@es.govt.nz](mailto:waterlandappeals@es.govt.nz) and Counsel for the Council ([philip.maw@wynnwilliams.co.nz](mailto:philip.maw@wynnwilliams.co.nz) / [kirstie.wyss@wynnwilliams.co.nz](mailto:kirstie.wyss@wynnwilliams.co.nz)).
  - (b) A waiver of the usual requirement to serve a copy of the evidence (evidence-in-chief and rebuttal) on all relevant parties.

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<sup>1</sup> Being ENV-2018-CHC-26 to -50.

- (c) A direction that service of evidence on all other parties can be deemed to be effected by the Council uploading a copy of the evidence onto the Council's website ([www.es.govt.nz/waterandland](http://www.es.govt.nz/waterandland)) as soon as is practicable, but within three working days after the evidence is received by the Council.

### **Grounds**

- 4 The Council supports the Court's earlier suggestion raised with the parties to make use of a document hosting service for filing and service of documents lodged on the pSWLP appeal proceedings.
- 5 The Council seeks the above waivers and directions on the following grounds:
- (a) The waivers and directions proposed above will:
- (i) reduce the burden on the Council in receiving hard copies of documents;
  - (ii) reduce the burden on appellants and section 274 parties who may be otherwise obliged to serve evidence on a significant number of parties; and
  - (iii) reduce the risk of service of evidence on certain persons being overlooked by the parties on account of the complexity in determining whether a party is interested in a particular appeal and/or topic in the proceedings.
- (b) The requirement of service of evidence on a dedicated Council email address, along with Counsel for the Council, will ensure timely and efficient uploading of the evidence on the Council's website.
- (c) It is submitted that no parties will be prejudiced by the waivers and directions sought. The waivers and directions sought will simplify processes and enable parties to access the pSWLP appeal documents in a timely and efficient manner.

- (d) The filing of evidence is subject to timetable directions from the Court,<sup>2</sup> so parties will be aware of when they should check the Council's website.
- (e) Further, the parties have had the opportunity to respond to the Court and the Council's suggested approach for a document hosting service.<sup>3</sup> No party has raised any issue with the Council's suggested approach to the document hosting service, except for Horticulture New Zealand, who requested that the parties are notified by email when new documents are uploaded to the host site.<sup>4</sup> In response:
- (i) The Council considers that notifying the parties by email each time a document is added to the website places an unreasonable burden on the Council, and defeats, in part, one of the purposes of a document hosting system (e.g. parties are likely to receive numerous emails for topics / issues that they are not involved in).
- (ii) The Council considers that it is more appropriate for parties to be responsible for checking the Council's website from time-to-time, and in accordance with the Court's directed timetable for evidence exchange.
- (iii) Further, the applications for waivers relates only to evidence, and it is anticipated that the parties will continue to file and serve other documents (e.g. any applications and memoranda) with the Court and the relevant parties, and that the Court will continue to issue Minutes and decisions to all parties, so parties will continue to be aware of all relevant directions and decisions.
- 6 The Council will make live a specific webpage on the Council's website, that will contain all of the notices of appeal and section 274 notices, along with the evidence subsequently filed by the parties.

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<sup>2</sup> Minute of the Environment Court dated 19 October 2018 at [11].

<sup>3</sup> As set out in the Memorandum of Counsel on behalf of the Southland Regional Council dated 19 September 2019 at [17]-[22] and as provided for in the Court's Minute dated 12 September 2018 at [35(c)].

<sup>4</sup> Memorandum for Horticulture New Zealand dated 28 September 2018 at [6].

- 7 The Council will also upload other documents already filed with the Court and served on the Council (including the Council's evidence-in-chief), along with other documents subsequently filed and served by the parties (e.g. applications, memoranda), along with any Minutes (and decisions) issued by the Court.
- 8 As per the above waivers and directions, copies of all evidence will be uploaded as soon as practicable after the documents are received by the Council, but within three working days of the document being received by the Council.
- 9 Counsel notes that the next step in the evidence exchange timetable is for the Appellants to file and serve their evidence-in-chief on 15 February 2019. Accordingly, Counsel respectfully seeks that the Court considers this application for waiver in advance of that date, so that the Appellants have the benefit of the reduced service requirements when filing their evidence-in-chief.



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P A C Maw / K J Wyss

Counsel for Southland Regional Council

Date: 25 January 2019