

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

UNDER the Resource Management Act 1991

IN THE MATTER of appeals under clause 14(1) of the First Schedule

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

ALLIANCE GROUP LTD
(ENV-2018-CHC-39)

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

Appellants

AND **SOUTHLAND REGIONAL COUNCIL**

Respondent

**MEMORANDUM OF COUNSEL SEEKING WAIVER OF SERVICE FOR FILING S274
EVIDENCE
IN SUPPORT OF LISTED APPELLANTS
(13 MARCH 2019)**

Judicial Officer: Judge Borthwick and Judge Hassan

Solicitor for Appellant:
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May it please the Court:

Introduction

1. By minute dated 30 January 2019, the Court directed (in response to an application for waivers and directions by the Respondent) that all evidence (evidence-in-chief and rebuttal) relating to the appeals is to be:
 - a. Filed electronically with the Environment Court by email to emma.sprott@justice.govt.nz; and
 - b. Served electronically on the Council by e-mail to waterlandappeals@es.govt.nz and counsel for the Council (philip.maw@wynnwilliams.co.nz, kirstie.wyss@wynnwilliams.co.nz).
2. Federated Farmers filed evidence in chief on February 15 2019 by e-mailing the evidence to emma.sprott@justice.govt.nz and waterlandappeals@es.govt.nz, but by oversight, did not serve it electronically on counsel for the Respondent. The evidence was nonetheless uploaded to the Respondent's website, along with the other evidence.
3. Federated Farmers filed evidence in support of s274 parties in the same manner on 1 March 2019 i.e. by sending it to emma.sprott@justice.govt.nz and waterlandappeals@es.govt.nz, unaware of the error in service. This time however, the evidence was not uploaded onto the Respondent's website along with the other evidence. Counsel understands this was due to an administrative error, as the evidence was received the day it was sent to the waterlandappeals@es.govt.nz e-mail address; however, this was unable to be resolved by counsel for the Respondent as they did not receive the evidence.
4. Counsel was away from the office for most of the week of 4th March and only became aware of the omission Monday 11 March, and confirmed the position with counsel for the Respondent today, 13 March.
5. Counsel has spoken with counsel for the Respondent, and although the evidence was filed with the Court and one of the addresses listed for service on the Respondent, it is acknowledged technically service has not been effected in accordance with the Court's directions. Therefore a waiver is sought (in retrospect) to comply with the Court's directions.
6. As the evidence has only been uploaded to the Respondent's website on the morning of 13 March, some affected parties may suffer some prejudice by not being aware of Federated Farmers position on certain issues, noted in paragraph 8 below.

7. Given some parties may be prejudiced by the late upload of evidence to the Respondent's website, it is respectfully suggested a further week is provided to those parties to comply with the evidence timetable to allow, if necessary, reconsideration of evidence to be filed. The date for filing evidence in chief for parties opposed to the (relevant) appeals would then be filed by **Friday 22 March 2019**, rather than Friday 15 March 2019.

8. For the assistance of the Court and parties, the evidence of Federated Farmers dated 1 March 2019 related to the appeals of Aratiatia (ENV-2018-CHC-29), Alliance Group (ENV-2018-CHC-39) and Te Runanga O Ngai Tahu & Ors (Nga Runanga) (ENV-2018-CHC-47) and dealt with:
 - a. Objective 10 (Aratiatia Livestock Limited appeal)
 - b. Objectives 13, 13A, 13B and 18 (Alliance Group Ltd appeal)
 - c. Objectives 13, 13A and 13B (Nga Runanga appeal).



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Clare Lenihan

Counsel for the Appellant

13 March 2019