

**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

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)

(Continued next page)

**MEMORANDUM OF COUNSEL FOR SOUTHLAND REGIONAL COUNCIL
REGARDING PRE-MEDIATION STEPS
17 February 2021**

Judicial Officer: Judge Borthwick

Respondent's Solicitor
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WILKINS FARMING CO
(ENV-2018-CHC-30)

**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
(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, KODANSHA
TREEFARM NEW ZEALAND LIMITED, SOUTHLAND
PLANTATION FOREST COMPANY OF NEW ZEALAND**
(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

MAY IT PLEASE THE COURT

- 1 This Memorandum of Counsel is filed on behalf of the Southland Regional Council (**Council**) in respect of mediation of the appeals against the Council's decision on the proposed Southland Water and Land Plan.
- 2 This Memorandum relates to the earlier Memorandum filed by Counsel on 3 February 2021 (**earlier Memorandum**), and addresses the pre-mediation steps and the proposed timetable for mediations.

Pre-mediation steps

- 3 In its earlier Memorandum, Counsel sought further directions with respect to amended pre-mediation steps for the Topic B mediations. The key reason why further directions were sought was because there was some uncertainty as to what was required of the Council with respect to the provision of technical papers as part of the pre-mediation steps.
- 4 The Council has subsequently reconsidered the directions sought and has concluded that the changes suggested to the directions issued on 1 December 2020 are not necessary.
- 5 By way of explanation, the changes were sought with the intent of clarifying what was required as part of the pre-mediation steps. The Council has subsequently concluded that the directions regarding technical papers can be complied with by referencing any relevant technical information the Council holds, including information contained in the section 42A reports provided to the Council's Hearing Panel, that either:
 - (a) underpinned the notified plan or (where changes were made) the recommendations made by the Hearings Panel; or
 - (b) supports the Council's position (if it supports a position different to the Decision).
- 6 The Council may also rely on and reference expert evidence as to the state of the environment that was presented during the course of Environment Court hearings on the Topic A provisions. If doing so, the Council will reference the specific part(s) of that evidence that is relevant to the topic(s) the subject of the mediation.

- 7 For completeness, Counsel notes that, where the issues were uncontested or a decision was made based on policy (planning) reasons rather than technical reasons, there may be few, or no, technical papers for the Council to circulate.
- 8 Accordingly, Counsel withdraws its request for further directions set out at paragraph 11(b) of the earlier Memorandum.
- 9 If Counsel has misunderstood the Court's previous directions with respect to the provision of technical papers, Counsel seeks a teleconference to better understand the Court's earlier directions.

Proposed timetable for mediation

- 10 On the basis that the 1 December 2020 directions remain, the proposed timetable provided in the earlier Memorandum requires revision. A revised timetable, which does not alter the dates of mediation but instead shows the due date of all pre-mediation steps, is attached as **Appendix A**. Counsel respectfully seeks that this proposed timetable be approved.
- 11 For completeness, Counsel also records that some parties to these proceedings have indicated that they have issues with the proposed timetable for mediation. Those issues may be capable of being addressed by enabling remote attendance at mediation should the directions for mediation allow participation on that basis. Counsel requests that other parties advise Counsel for the Council of any timetabling constraints that cannot be resolved by way of remote attendance, as a matter of urgency.

DATED this 17th day of February 2021



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P A C Maw / A M Langford
Counsel for the Southland Regional Council

Appendix A

Proposed Mediation Timeline

Order and Grouping of Topics	Duration Estimate	Week Commencing																
		FEB			MARCH				APRIL				MAY					
		8	15	22	1	8	15	22	29	5	12	19	26	3	10	17	24	31
B7: Other (Heritage, Burning, Consents) (<1 day)	3.25 days							Ascot										
B1: Water Takes (1 days)								Ascot										
B2: Water Quality/Discharge (2 days)								Ascot										
B5: Farming (6 days across two weeks - 3 days each week)	6 days										Ascot	T.World						
B4: Bed Disturbance (2-3 days with B3)	2-3 days													Ascot				
B3: Wetlands/Indigenous Biodiversity (2-3 days with B4)														Ascot				
B6: Infrastructure (TBC) (1-2 days)	1-2 days															Ascot		
Total	5 x 1 week blocks																	

Notes:

Primary Venue - Ascot
 Secondary Venue - Transport World
 (other options - Working Men's Club; ILT)

NB: short week (Easter Monday & Southland Anniversary)

29 March to 1 April (Monday to Thursday)

20 April to 23 April (Tuesday to Friday)
 27 April to 30 April (Tuesday to Friday)

11 May to 14 May (Tuesday to Friday)

25 May to 28 May (Tuesday to Friday)

Proposed dates for mediation:

KEY
1. NPS and NES Analysis
2. Confer with parties on interests and reasons for relief
3. Council to circulate technical papers, inviting comment from parties
4. Parties to review technical papers and provide any comment
5. Council to circulate final version of technical papers, options paper (incl s 32 analysis) and indication of its position
MEDIATION