

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

AT CHRISTCHURCH

IN THE MATTER of the Resource Management Act 1991

AND of appeals under clause 14 of the First Schedule of
the Act

BETWEEN **FONTERRA CO-OPERATIVE LTD**
(ENV-2018-CHC-27)
Appellant
[Continued on last page]

AND **SOUTHLAND REGIONAL COUNCIL**
Respondent

**Memorandum of Counsel for the
Director-General of Conservation/Te Tumuaki Ahurei in support of
Notice of Wish to be Heard on Notice of Motion**

Dated 2 June 2020

Department of Conservation
Planning, Permissions and Land
RMA Shared Services
Private Bag 4715
Christchurch 8140
Phone: 03 371 3700
Solicitor: Pene Williams

MAY IT PLEASE THE COURT

1. This Memorandum of Counsel is filed on behalf of the Director-General of Conservation/Te Tumuaki Ahurei (the Director-General) in support of his Notice of Motion of Wish to be Heard dated 2 June 2020.
2. This Memorandum responds to the matters raised in the Court's directions dated 27 May 2020, and to the question of the "appropriate process" discussed in paragraph 8 of the Joint Memorandum of Counsel Seeking a Ruling on Scope dated 22 May 2020 (the Joint Memorandum).
3. In its directions dated 27 May, the Court sought clarification of the parties' positions on whether Ngā Rūnanga's evidence may be provisionally admitted, and whether the Notice of Motion Seeking a Ruling on Scope (the Scope Motion) should be heard at the same time as the related matters already set down for a hearing commencing 15 June 2020.
4. On behalf of the Director-General it is submitted it would be appropriate to first provisionally admit the evidence and determine whether Topic A provisions (and specifically Objectives 1 and 3) appropriately implement Te Mana o te Wai and Ki uta ki tai, and give effect to the NPSFM, or whether amendments or wording changes to the Plan are required in order to address this.
5. Having considered the evidence, the Court will then be able to determine the issue raised in the Scope Motion. The reasoning for proposing this approach is that until there is a clear view of the extent of wording changes, if any, that the Court may consider to be necessary to implement Te Mana o te Wai and ki uta ki tai, to give effect to the NPSFM, it is not feasible to assess whether the scope to make those changes arises from the appeals.
6. It follows that Counsel for the Director-General submit the process set out in paragraph 8 of the Joint Memorandum is not the most appropriate process for determining these scope issues. In particular, the process sought by the Primary Sector parties inappropriately focusses at the outset on whether there is scope for "all" changes to Objectives sought by Ms Davidson. However, it is respectfully submitted that if the Court determines that some (but not "all") of Ms Davidson's

suggested changes to Objectives are desirable to give effect to the NPSFM and implement Te Mana o te Wai, then the focus of the scope enquiry should be on those changes only, rather than “all” changes.

A handwritten signature in blue ink, appearing to read 'D van Mierlo' or similar, written in a cursive style.

D van Mierlo/ P Williams

Counsel for the Director-General of Conservation/ Te Tumuaki Ahurei

Dated 2 June 2020

BETWEEN

HORTICULTURE NEW ZEALAND

(ENV-2018-CHC-28)

ARATIATIA LIVESTOCK LTD

(ENV-2018-CHC-29)

WILKINS FARMING CO

(ENV-2018-CHC-30)

GORE AND SOUTHLAND DISTRICT COUNCILS,

INVERCARGILL CITY COUNCIL

(ENV-2018-CHC-31)

DAIRYNZ LTD

(ENV-2018-CHC-32)

H W RICHARDSON GROUP LTD

(ENV-2018-CHC-33)

BEEF + LAMB NEW ZEALAND

(ENV-2018-CHC-34 AND 35)

DIRECTOR-GENERAL OF CONSERVATION

(ENV-2018-CHC-36)

SOUTHLAND FISH & GAME COUNCIL

(ENV-2018-CHC-37)

MERIDIAN ENERGY LTD

(ENV-2018-CHC-38)

ALLIANCE GROUP LTD

(ENV-2018-CHC-39)

FEDERATED FARMERS OF NEW ZEALAND

(ENV-2018-CHC-40)

HERITAGE NEW ZEALAND POHERE TAONGA

(ENV-2018-CHC-41)

STONEY CREEK STATION LTD

(ENV-2018-CHC-42)

THE TERRACES LTD

(ENV-2018-CHC-43)

CAMPBELL'S BLOCK LTD

(ENV-2018-CHC-44)

ROBERT GRANT

(ENV-2018-CHC-45)

SOUTHWOOD EXPORT LTD, SOUTHLAND PLANTATION

FOREST COMPANY OF NZ

(ENV-2018-CHC-46)

**TE RUNANGA O NGAI TAHU, HOKONUI RUNAKA,
WAIHOPAI RUNAKA, TE RUNANGA O AWARUA AND TE
RUNANGA O ORAKA APARIMA**

(ENV-2018-CHC-47)

PETER CHARTRES

(ENV-2018-CHC-48)

RAYONIER NEW ZEALAND LTD

(ENV-2018-CHC-49)

**ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NZ
INC**

(ENV-2018-CHC-50)

Appellants

AND

SOUTHLAND REGIONAL COUNCIL

Respondent