

**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** **WILKINS FARMING COMPANY LIMITED**  
(ENV-2018-CHC-030)  
(ENV-2018-AKL-380)  
**Appellant**

**AND** **SOUTHLAND REGIONAL COUNCIL**  
**Respondent**

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**JOINT MEMORANDUM OF COUNSEL - TRANCHE 2 REPORTING DATE**

**6 April 2023**

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Judicial Officer: Judge Borthwick

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Respondent's Solicitor  
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**WYNN WILLIAMS**

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**MAY IT PLEASE THE COURT**

- 1 This Joint Memorandum of Counsel relates to:
  - (a) The balance of the appeal by Wilkins Farming Co Limited (**Wilkins**) against the decision by Southland Regional Council (**Council**) to grant resource consent to take and use groundwater subject to conditions (ENV-2018-AKL-0380) (**Consent Appeal**); and
  - (b) That part of the Wilkins' appeal against the decisions of Council on the proposed Southland Water and Land Plan (**pSWLP**) (ENV-2018-CHC-0030) identified as Topic B1, Tranche 2 (**Tranche 2 Appeal**).
  - (c) This memorandum responds to the Court's Minute dated 24 August 2022 in relation to the Tranche 2 Appeal and the direction of 4 October 2022 in relation to the Consent Appeal directing the parties to file a memorandum reporting on the progress of the workstreams underway and secondly, proposing further directions as may be required to resolve the Tranche 2 appeal.
- 2 In relation to the consent review process:
  - (a) The Council issued the last of the s128 consent review notices to affected consent holders in September 2022.
  - (b) The timeframe within which the Council is required to make a decision with respect to notification on the consent reviews has been extended until 1 May 2023.
- 3 The affected consent holders are continuing to pursue a number of potential solutions to the over-allocation issue. The affected consent holders and Council representatives are continuing to work together on identifying and progressing potential solutions. This includes:
  - (a) all affected consent holders giving specific consideration to identified options for reducing their respective contributions to the cumulative stream depletion effect;
  - (b) Council representatives meeting individually with consent holders in the "high" and "moderate" connectivity category to discuss options for reducing their respective contributions to the cumulative stream depletion effect; and

- (c) discussions between legal, planning and technical advisers on the appropriate method to calculate the stream depletion effect available for allocation to consented activities.
- 4 The intention is to complete the above workstreams before determining what changes are required to conditions of which consents before mid-April 2023, to enable the Council to make a decision as to notification of each s128 review notice by 1 May 2023.
- 5 To allow the consent review process to run its course, counsel request a further reporting date in 5 months' time, of **Friday, 25 August 2023**.
- 6 By this time, it is anticipated that the consent review process will be close to completion. If further directions are required to resolve the appeals, parties will propose directions at that time.

**Directions sought**

- 7 That the parties file a memorandum reporting on the progress of the allocation workstreams by **Friday, 25 August 2023**.

**DATED** this 6<sup>th</sup> day of April 2023



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**P A C Maw / I F Edwards**  
Counsel for the Southland Regional Council



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**B S Carruthers KC**  
Counsel for Wilkins Farming Company Limited