

**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)

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**MEMORANDUM OF COUNSEL FOR SOUTHLAND REGIONAL COUNCIL  
PROVIDING UPDATE ON STATUS OF APPLICATIONS FOR CONSENT  
ORDERS  
26 January 2022**

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Judicial Officer: Judge Borthwick

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**WILKINS FARMING CO**  
(ENV-2018-CHC-30)

**GORE DISTRICT COUNCIL, SOUTHLAND DISTRICT  
COUNCIL & INVERCARGILL CITY 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 the appeals against the Council's decision on the proposed Southland Water and Land Plan (**pSWLP**). It responds to the following directions, issued by Judge Borthwick on 25 January 2022:

Counsel for Southland Regional Council are to report to the court by **4pm Wednesday 26 January 2022** identifying by reference the provisions proposed to be amended by consent and whether the changes are to be supported by affidavits. The court is endeavouring to get to grips with the scope and scale of consent orders that are being sought to reach an informed view on whether the hearing can proceed or not.

and

Further to the direction requiring counsel for Southland District Council to report to the court tomorrow, I should have noted the direction concerns the application(s) for consent orders that was to have been filed by 19 November 2021. The application precedes the provisions set down for hearing in March 2022. The application has not been filed as directed and no application has been made to extend those directions. When responding, counsel for the Council are to seek new directions on the filing of the application for consent orders.

- 2 The purpose of this memorandum is to:
- (a) Respond to these directions;
  - (b) Make an application to extend the directions previously made; and
  - (c) Seek new directions with respect to the filing of the applications for consent orders.

**Background**

- 3 The issues the subject of appeals on the pSWLP fall into three categories:
- (a) Issues that were resolved as between the parties, either at mediation or via direct negotiations, as at 19 November 2021;

(b) Issues that were the subject of expert conferencing in November and December 2021 and for which no dispute remains as between the experts; and

(c) Issues that remain in dispute as between the parties and experts.

4 The status of the issues in each of these categories is detailed below.

**Issues that were resolved as between the parties, either at mediation or via direct negotiations, as at 19 November 2021.**

5 These issues are set out in the Memorandum of Counsel for Southland Regional Council dated 19 November 2021 at Appendix A. For ease of reference, Appendix A is attached to this memorandum as **Appendix A**.<sup>1</sup>

6 For those issues where the status was recorded in Appendix A as “Resolved – parties to file draft consent orders”, the Council is in the process of finalising the documentation for draft consent orders, including supporting affidavits which include analysis by planning experts in terms of section 32AA of the Act. It is anticipated that these will be ready to be filed by Thursday 3 February 2022.

7 Counsel acknowledges that the filing of these consent orders is later than previously indicated to the Court. The key reason for the delay is that Council staff who are authoring the affidavits in support of the consent orders were under significant time pressure both preparing for and attending expert witness conferencing (the planners were required to attend the planning conferencing and observe all of the technical conferencing) throughout November and December 2021.

8 Counsel acknowledges that this delay should have been signalled to the Court earlier, and new directions sought. Counsel apologises for any inconvenience this may have caused.

9 In the meantime, Counsel is working expeditiously on refining the package of documents that will be filed when consent orders are sought. What is proposed is that consent orders will be sought with respect to each of the topics that were the subject of mediation. A memorandum of

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<sup>1</sup> Note that some amendments have been made to this table. The reasons for these changes have been set out in the Appendix.

counsel, together with a supporting affidavit will be filed for each topic, as follows:

- (a) Topic B1 – Water Takes.
- (b) Topic B2 – Water Quality / Discharges.
- (c) Topic B3 – Wetlands and Indigenous Biodiversity.
- (d) Topic B4 – Bed Disturbance.
- (e) Topic B5 – Farming.
- (f) Topic B6 – Infrastructure.
- (g) Topic B7 – Other.

- 10 Accordingly, Counsel respectfully seeks that the Court direct the Council to file consent order documentation for issues that had been resolved by 19 November 2021 by no later than Thursday 3 February 2022.

**Issues that were the subject of expert conferencing in November and December 2021 and for which no dispute remains as between the experts.**

- 11 Facilitated expert conferencing took place between 17 November and 10 December 2021. The outcome of each of the individual conferences was a joint witness statement (**JWS**) setting out the issues that were agreed as between the experts, and the issues that remain in dispute. The final expert conference held was between the planning experts. The JWS from this planning conference dated 10 December 2021 sets out, alongside the reasoning of the experts, an agreed version of many of the provisions which are to be determined in the hearing. Accordingly, there is no longer a dispute as between the experts as to the most appropriate wording of the vast majority of the unresolved provisions.
- 12 Despite agreement being reached as between the experts, the Council is not yet in a position to prepare and file draft consent orders in respect of those issues upon which the experts agree as it is not yet apparent what the position of all of the parties is. The Appellants have filed evidence on whether they agree with the position reached in the JWS, however the section 274 parties are to file their evidence on 4 February 2022. It will likely become apparent once the section 274 parties have

filed their evidence whether there remains any dispute as between the parties in relation to these provisions.

- 13 In relation to the issues agreed as between the experts, a number of parties have indicated to the Council that they wish for these issues to now be resolved by way of consent orders rather than proceeding to a hearing. In brief, those parties consider that, due to the considerable number of issues that have been agreed as between the experts, doing so would minimise hearing time and costs for all parties involved. However, given that evidence has been exchanged, and that the Court may have questions of the experts in relation to the contents of that evidence and the JWS's, the Court's preference may be to proceed to hear from and question the experts rather than proceed by way of consent orders.
- 14 In order to seek clarity on the Court's preferred approach, Counsel respectfully suggests that a judicial telephone conference be convened just as soon as possible.

**Issues that remain in dispute as between the parties and experts.**

- 15 Finally, some issues remain in dispute as between the parties and their experts. No consent orders are to be sought in relation to the same and determination by the Court will be required in relation to these matters.

**Directions sought**

- 16 Counsel respectfully seeks the following directions:
- (a) The Council is to file consent documentation for all matters which are recorded as "Resolved – parties to file draft consent orders" in Appendix A to this Memorandum by no later than Thursday 3 February 2022.

- (b) That a telephone conference is set down to clarify whether issues subsequently resolved as between the experts and agreed to as between the parties should be the subject of further consent orders or whether those issues should be considered at the hearing.

**DATED** this 26<sup>th</sup> day of January 2022



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



### Appendix A – resolved issues

<b>Topic B1 – Water takes (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
<b>1</b>	Should the reference to 'water quality in Policy 20(d)(2) also specify temperature and oxygen content?	Policy 20	Resolved - parties to file draft consent orders
<b>2</b>	Should Appendix O be referred to by Policy 20, or reflect limits to improving water efficiency in older industrial or trade infrastructure?	Policy 20	Resolved - appeal point withdrawn/to be withdrawn
<b>3</b>	Should 'including for primary production' be deleted?	Policy 20(1A)	Resolved - parties to file draft consent orders
<b>4</b>	Is 'avoid, remedy, or mitigate' appropriate to include or should the wording be altered? If so, how?	Policy 20(1)	Resolved - parties to file draft consent orders
<b>5</b>	Should 'industries that process perishable foods' be deleted, or otherwise clarified?	Policy 25	Resolved - parties to file draft consent orders
<b>7</b>	Should Policy 42(5) require that Alliance's takes are subject to minimum flows or levels?	Policy 42	Resolved - appeal point withdrawn/to be withdrawn
<b>8</b>	Should Rule 49 enable the consideration of all non-consumptive takes, diversions and use of water as a restricted discretionary activity?	Rule 49	Resolved - appeal point withdrawn/to be withdrawn
<b>9</b>	Should compliance with Appendix R only apply to permitted activities or be deleted from Rule 49?	Rule 49	Resolved - appeal point withdrawn/to be withdrawn
<b>10</b>	Should Rule 49(a)(vi)(1) to (5) be retained or deleted?	Rule 49	Resolved - parties to file draft consent orders
<b>12</b>	Should existing priority takes be a controlled activity under Rule 50?	Rule 50	Resolved - appeal point withdrawn/to be withdrawn

<b>Topic B1 – Water takes (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
13	Should permitted activity water take data be recorded daily or weekly?	Rule 54(a)	Resolved - parties to file draft consent orders
14	Should the rate of take for permitted activity pump testing be removed/amended?	Rule 54(c)	Resolved - appeal point withdrawn/to be withdrawn
15	Should Alliance's sites be included in Appendix J as drinking water protection zones?	Appendix J	Resolved - appeal point withdrawn/to be withdrawn
16	Should the relief sought in submission point 752.186 be granted?	Appendix K	Resolved - parties to file draft consent orders
17	Should the groundwater zone allocations be based on a different methodology?	Appendix L.5	Resolved (partial - Director-General of Conservation appeal) - parties to file draft consent orders

<b>Topic B2 – Water Quality and Discharges (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
1	Should reference to primary production be deleted from this policy?	Policy 13	Resolved - parties to file draft consent orders
2	Should the policy be premised on sustainable use and development?	Policy 13	Resolved - appeal point withdrawn/to be withdrawn
4	Should Policy 14 only apply if a discharge to land is practicable and appropriate?	Policy 14	Resolved - appeal point withdrawn/to be withdrawn

<b>Topic B2 – Water Quality and Discharges (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
5	Should Policy 15, ahead of FMU processes, require maintenance of water quality where Appendix E quality standards are met, and improvement, where practicable, where Appendix E standards are not met, with Policies 15A and 15B being deleted?	Policies 15A, 15B	Resolved - appeal point withdrawn/to be withdrawn
7	Should new and replacement resource consents be treated the same in these policies?	Policy 15A and 15B	Resolved – parties to file draft consent orders
8	Should Policy 15B require more certainty that water quality from existing discharges will be improved?	Policy 15B	Resolved - parties to file draft consent orders
10	Should the policies require avoidance of adverse effects, or have a hierarchy of avoid, remedy and mitigate, rather than minimisation of effects?	Policies 15A, 15B, 16A, 17A	Resolved - parties to file draft consent orders
11	Will BPO always be an adequate response?	Policy 16A	Resolved - parties to file draft consent orders
12	Should the Policy refer to ‘progressive’ reductions and is that sufficiently specific?	Policy 17A	Resolved - parties to file draft consent orders
13	Should discharges into listed wetlands or waterbodies in Appendix A be a noncomplying activity?	Rules 5 and 6	Resolved - appeal point withdrawn/to be withdrawn
14	Should reconsenting existing discharges be discretionary activities?	Rules 5 and 6	Resolved - appeal point withdrawn/to be withdrawn
15	Should the discharge of any raw sewerage be a non-complying activity?	Rules 5, 6 and 15	Resolved - parties to file draft consent orders
16	Should achieving the Appendix E water quality standards be a condition of the rules?	Rules 5, 6 and 15	Resolved - parties to file draft consent orders

<b>Topic B2 – Water Quality and Discharges (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
17	Should “stormwater” include other contaminants?	Rule 15 and/or definition	Resolved - parties to file draft consent orders
18 <sup>2</sup>	<del>Should discharges from stormwater systems, on-site effluent systems, composting and pit toilets be required to be set-back at least 50m from mātaītai reserves and taiāpure?</del>	<del>Rules 15, 26, 28 and 29</del>	<del>Resolved - parties to file draft consent orders</del>
19	Should the 20m waterbody setback apply to community sewerage schemes constructed prior to notification of the pSWLP?	Rule 33	Resolved - parties to file draft consent orders
20	Should the discharge of treated effluent into water be a discretionary activity?	Rule 33A	Resolved - parties to file draft consent orders
22	Should fine sediment be added and MCI, QMCI and Clarity changed?	Appendix E	Resolved - parties to file draft consent orders
23	Should the standards be amended so they take appropriate account of existing land use, existing water quality and natural variability?	Appendix E	Resolved - appeal point withdrawn/to be withdrawn
24	Should Mataura River at Mataura River Bridge be deleted from the list of popular bathing sites in Appendix G?	Appendix G	Resolved - appeal point withdrawn/to be withdrawn
25	Should the policy require avoidance of (significant) adverse effects, or have a hierarchy of avoid, remedy and mitigate, rather than minimisation of effects?	Policy 17	Resolved - parties to file draft consent orders
26	Should Policy 17(1) be deleted, as guidance is given by Policies 15 and 16?	Policy 17	Resolved - parties to file draft consent orders

<sup>2</sup> This issue was previously resolved as between the parties, however they have since been in discussions as to a change to the agreed outcome. These discussions are ongoing, therefore consent orders are not proposed to be sought for this issue at this time.

<b>Topic B2 – Water Quality and Discharges (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
27	Should the requirement to comply with agrichemical manufacturers recommendations be deleted?	Rule 9	Resolved - parties to file draft consent orders
28 <sup>3</sup>	<del>Should further standards be added and existing ones strengthened, including adding Appendix E water quality standards?</del>	Rule 13	<del>Resolved - parties to file draft consent orders</del>
29	<del>Should an exclusion from standards be added to enable periodic cleaning of drains?</del>	Rule 13	<del>Resolved - parties to file draft consent orders</del>
30	<del>Should the requirement to map and provide information on sub-surface drains be removed?</del>	Rules 13, 35 + ors	<del>Resolved - parties to file draft consent orders</del>
31	Should the setback be increased to 10m and there be a specification of a minimum width for riparian planting?	Rule 14	Resolved - appeal point withdrawn/to be withdrawn
32	Should restrictions apply to natural wetland or all wetlands?	Rule 14	Resolved - appeal point withdrawn/to be withdrawn
33	Should the plan clarify that IPENZ practice notes may not be applicable to all above ground tanks?	Policy 17, Rule 32B	Resolved - parties to file draft consent orders
34	Should only new effluent storage facilities be subject to a setback from drinking water abstraction points?	Rule 32B	Resolved - appeal point withdrawn/to be withdrawn
35	Should approval be able to be given by a broader range of suitably qualified people?	Rule 32B	Resolved - appeal point withdrawn/to be withdrawn

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<sup>3</sup> Issues 28, 29, and 30 were previously agreed as between the parties, however they have since been in discussions regarding changes to the agreed position. Rule 13 was subsequently considered by the experts at expert conferencing. While the experts are in agreement as to these issues, it is not yet clear the position of the parties on these issues. Accordingly, consent orders are not proposed to be sought for these issues at this time.

<b>Topic B2 – Water Quality and Discharges (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
36	Should the incidental discharges authorised by this rule be subject to a pond drop test?	Rule 32B, 32D	Resolved - parties to file draft consent orders
37	Should the 35m <sup>3</sup> threshold for inspection and certification be for each component of a system, rather than the whole system?	Rule 32B, 32D	Resolved - parties to file draft consent orders
38	Should above ground storage tanks be subject to visual inspection, and not require a leak detection system?	Rule 32D	Resolved - parties to file draft consent orders
39	Should the repair of storage facilities be a permitted activity under this rule?	Rule 32D	Resolved - parties to file draft consent orders

<b>Topic B3 – Wetlands and Indigenous Biodiversity (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
2	Should Policy 32 include reference to maintaining indigenous biodiversity?	Policy 32	Resolved - parties to file draft consent orders
4	Should commercial peat harvesting in a regionally significant wetland be a non-complying activity?	Rule 74	Resolved - appeal point withdrawn/to be withdrawn
5	Should Rule 74(ab) be deleted?	Rule 74(ab)	Resolved - parties to file draft consent orders
7	Should removal of plant species for mahinga kai be included as a purpose under Rule 74(a)?	Rule 74	Resolved - parties to file draft consent orders
9	Should additional detail be added to the Note in Appendix A?	Appendix A	Resolved - parties to file draft consent orders

<b>Topic B3 – Wetlands and Indigenous Biodiversity (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
10	Should additional waterbodies from the deleted Appendix Q be incorporated into Appendix A?	Appendix A	Resolved - parties to file draft consent orders
11	Should Appendix A revert to the notified version, by removing the added waterbodies? Should the Regionally Significant Wetlands on the Te Anau Downs station be removed from Appendix A?	Appendix A	Resolved - appeal point withdrawn/to be withdrawn
12	Should the definition of 'natural wetland' be amended?	Definition	Resolved - appeal point withdrawn/to be withdrawn
13	Should either the definition of 'wetland' or references to wetlands in rules be amended?	Definition	Resolved - appeal point withdrawn/to be withdrawn

<b>Topic B4 – Bed Disturbance (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
1	Is 'remedy or mitigate' appropriate to include or should the wording be deleted?	Policy 28	Resolved - parties to file draft consent orders
2	How are gravel extraction activities able to remedy or mitigate effects on cultural values or recreational values?	Policy 29	Resolved - parties to file draft consent orders
3	Should the adverse effects on significant indigenous vegetation and significant habitat of indigenous fauna be included in the policy?	Policy 29	Resolved - parties to file draft consent orders
4	After gravel extraction should the area be 'restored' or 'enhanced'?	Policy 29	Resolved - parties to file draft consent orders
5	Should the policy include the restoration or riverine habitats also?	Policy 29	Resolved - parties to file draft consent orders

<b>Topic B4 – Bed Disturbance (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
6	Should the adverse effects on water quality, aquatic ecosystem health, life supporting capacity, natural character and riparian margins, mahinga kai, indigenous vegetation and fauna be specifically referenced in the policy?	Policy 30	Resolved - parties to file draft consent orders
7	Should fish passage, spawning habitat and bank stability be referred to in the policy?	Policy 30	Resolved - parties to file draft consent orders
8	Should sediment loss to water from the drainage activities be referenced in the policy?	Policy 30	Resolved - parties to file draft consent orders
9	How can network utility structures be recognised when culverts are being installed so as to not compromise the network utilities?	Rule 59	Resolved - appeal point withdrawn/to be withdrawn
10	Should the matters of discretion in Rule 73(A) and (B) be consistent and should Rule 73(B) include reference to natural character, navigation hazard, public access and recreational values?	Rule 73	Resolved - parties to file draft consent orders
11	Should a certain level of gravel extraction be provided for as a permitted activity?	Rule 73	Resolved - appeal point withdrawn/to be withdrawn

<b>Topic B5 – Farming (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
34	Should Table 1, beef cattle and deer on plains be amended to read the same as the guidance for undulating/rolling and steeper land?	Rule 70	Resolved - appeal point withdrawn/to be withdrawn
37	Should the winter grazing mob size limit of no more than 120 cattle be increased to 200?	Rule 20	Resolved - appeal point withdrawn/to be withdrawn



<b>Topic B5 – Farming (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
43	Should Rule 20(a)(iii)(3)(E) be amended to increase the mob (herd) size of cattle from 120 to 200?	Rule 20	Resolved - appeal point withdrawn/to be withdrawn
44	Should the dates in Rule 20(a)(iii) be replaced with 31 December 2025?	Rule 20	Resolved - appeal point withdrawn/to be withdrawn
45	Should Rule 20(a)(iii)(4) be amended to require a 3 metre setback?	Rule 20	Resolved - appeal point withdrawn/to be withdrawn
50	Specific relief unclear - Rule 20(a)(iii)(3)(E) is also identified as being appealed, but there is no specific relief in the appeal notice.	Rule 20	Resolved - appeal point withdrawn/to be withdrawn
52	Should the months in the definition of 'intensive winter grazing' refer to 'June and August'?	Intensive winter grazing	Resolved - appeal point withdrawn/to be withdrawn
55	Should the matters for discretion in Rule 20 be amended to ensure water quality will not be adversely affected and ensure that water quality standards, limits, and targets are met?	Rule 20	Resolved - appeal point withdrawn/to be withdrawn
56	Should the matters for discretion in Rule 20 Discourage land use intensification and conversion which would affect the catchment's ability to meet water quality standards and targets?	Rule 20	Resolved - appeal point withdrawn/to be withdrawn
57	Should the matters for discretion in Rule 20 be amended to prevent the allocation of nutrients in the catchment by resource consent?	Rule 20	Resolved - appeal point withdrawn/to be withdrawn
58	Should the matters for discretion in Rule 20 be amended to ensure that existing land users and communities are recognised and provided for?	Rule 20	Resolved - appeal point withdrawn/to be withdrawn
79	Should the rule allow for cultivation to undertaken in accordance with the Erosion and Sediment Control Guidelines for Vegetable Production (Hort NZ, 2014)?	Rule 25 – Cultivation	Resolved - appeal point withdrawn/to be withdrawn

<b>Topic B5 – Farming (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
91	Should the definition of 'cultivation' include harvesting and sediment control measures?	Definition – Cultivation	Resolved - appeal point withdrawn/to be withdrawn
92	Should spray and pray be deleted from the definition of cultivation?	Definition – Cultivation	Resolved - appeal point withdrawn/to be withdrawn
103	Should Appendix N include the requirement to show the location of 'any known and recorded heritage site' in Farm Management Plans?	Appendix N	Resolved - parties to file draft consent orders

<b>Topic B6 – Infrastructure and Waiau / Manapōuri Power Scheme (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
3	Should Policy 26A be amended to enable, where practicable, the avoidance of adverse effects on the environment?	Policy 26A	Resolved - appeal point withdrawn/to be withdrawn
4	Should the management of effects from infrastructure be considered under "effects management" policies of the pSWLP?	Policy 26A	Resolved - parties to file draft consent orders
5	Does the ability under Policy 26A to remedy or mitigate effects conflict with requirements to maintain water quality?	Policy 26A	Resolved - parties to file draft consent orders
6	Should Policy 26A be amended to "enable" rather than "provide for" the effective development, operation, maintenance and upgrading of infrastructure?	Policy 26A	Resolved - appeal point withdrawn/to be withdrawn
7	Is there sufficient clarity as to what constitutes effective development, operation, maintenance and upgrading on regionally significant infrastructure and what is not already covered by the definition of "critical infrastructure"?	Policy 26A	Resolved - parties to file draft consent orders

<b>Topic B6 – Infrastructure and Waiau / Manapōuri Power Scheme (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
8	Should Rule 49(ab) be extended to address the damming and diversion of surface water?	Rule 49ab	Resolved - appeal point withdrawn/to be withdrawn
11	Should there be a new Rule 52(a)(iii) which provides a discretionary activity status where the permitted activity criteria under Rule 49(ab) is unable to be met?	Rule 52	Resolved - appeal point withdrawn/to be withdrawn
9	Should Rule 49(ab)(vii) be amended to exclude activities undertaken for the purpose of infrastructure construction, maintenance or repair in connection with the Manapōuri Hydro-electric scheme?	Rule 49ab	Resolved - appeal point withdrawn/to be withdrawn
10	Should Rule 49(ab) be listed in the exclusions under Rule 52(a) and 52(b)?	Rule 52	Resolved - parties to file draft consent orders
13	Should all abstraction, diversion, damming and use of water from the Waiau catchment, except as provided by Rules 49, 50 or 51 or RMA s.14(3), be a non-complying activity?	Rule 52	Resolved - appeal point withdrawn/to be withdrawn
16	Should Rule 52A be extended to apply to the Monowai Hydro-electric Generation Scheme?	Rule 52A	Resolved - appeal point withdrawn/to be withdrawn

<b>Topic B7 – Other remaining discrete issues (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
1	Should Policy 39 be retained, amended to include reference to water quantity, or deleted?	Policy 39	Resolved - parties to file draft consent orders
2	Should the policy include reference to the CMA as it is a function of council set out in s30?	Policy 39A	Resolved - parties to file draft consent orders
3	Should the policy refer to 'improving' rather than 'considering' when	Policy 39A	Resolved - parties to file

<b>Topic B7 – Other remaining discrete issues (resolved)</b>			
<b>Issue #</b>	<b>Issue</b>	<b>Provisions</b>	<b>Status</b>
	assessing against the sub clauses of the policy?		draft consent orders
4	Should the Policy be moved to the FMU section of the Plan to better align the policy with the FMU process?	Policy 39A	Resolved - appeal point withdrawn/to be withdrawn
5	Is it appropriate for the Ngā Rūnanga indicators of health to be considered when assessing the term of a resource consent?	Policy 40(2)	Resolved - appeal point withdrawn/to be withdrawn
6	Should the rule be deleted as burning is controlled by the fire service?	Rule 79	Resolved - Council to make alteration of minor effect or to correct minor error
7	Should the title of the bed disturbance section of the Plan be renamed to include wetlands?	Title	Resolved - parties to file draft consent orders
8	Should historic heritage values be included in the policies?	Policies 20, 24 and 28	Resolved - parties to file draft consent orders
9	Should an advice note for historic heritage values be included in the rules?	Rules 32B, 43, 53, 55, 59A and 63A	Resolved - parties to file draft consent orders
10	Should the advice note addressing historic heritage values be located at the end of the rule cascade?	Rules 57, 58, 59, 60, 61, 62, 64, 66, 67, 68, 72, 73, 75, 78	Resolved - parties to file draft consent orders
11	Should the appendix be amended to refer to instances when an archaeological authority has not been obtained?	Appendix S	Resolved - Council to make alteration of minor effect or to correct minor error