

**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)

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

(Continued next page)

**MEMORANDUM OF COUNSEL FOR SOUTHLAND REGIONAL COUNCIL
REGARDING THE INITIAL PLANNING STATEMENT
2 May 2019**

Judicial Officer: Judge Borthwick

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**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 Act 1991
(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**).
- 2 This Memorandum addresses the Court's Minute dated 2 April 2019 on the topic of mediation, particularly in relation to the production of an Initial Planning Statement.

Counsel for the Council's approach to producing an initial planning statement

- 3 In its Minute dated 25 July 2018, the Court considered that it would be of assistance if the Council was able to provide an early explanation of the pSWLP's relevant underpinnings and design approach by way of an "initial planning statement".¹
- 4 The Court noted that the section 32 and section 32AA reports and other material that informed the pSWLP decisions would elucidate things to some extent, but that those reports are now outdated insofar as those decisions have changed the notified version of the pSWLP. The Court stated that it saw value in a refreshed and comprehensive analysis being provided in advance of mediations in the form of planning evidence by the Council's lead planning witness (being a witness with appropriate understanding of these matters, supported by relevant reference material).²
- 5 At paragraph 8 of its Minute dated 25 July 2018, the Court identified specific questions that could be usefully covered in the Initial Planning Statement.
- 6 In order to provide a "refreshed and comprehensive analysis", Council Officers prepared an updated section 32 evaluation that aligned with the decisions version of the pSWLP and the reasoning in the associated Decision Report. It also incorporated parts of the Section 42A Report developed for the Council hearing and the Hearing Panel's Decision Report on the pSWLP. The updated analysis was shown by way of

¹ Minute of the Environment Court dated 25 July 2018 at [6].

² Minute of the Environment Court dated 25 July 2018 at [7].

marked up changes to the original section 32 report and appended to Counsel for the Council's Memorandum dated 19 October 2018.

- 7 Counsel considered that the Court's specific questions (as set out at paragraph 8 of its Minute dated 25 July 2018) largely fell within the ambit of the updated section 32 evaluation. Accordingly, to avoid duplication, the Court's specific questions were addressed in the updated section 32 evaluation. It was Counsel's intention that, as the updated section 32 evaluation would encompass all those matters required for the Initial Planning Statement and there was no specific format for the Initial Planning Statement, the updated section 32 evaluation would comprise the Initial Planning Statement as requested by the Court.
- 8 In its Memorandum dated 19 October 2018, Counsel provided a table setting out where in the updated section 32 evaluation / Initial Planning Statement each of the Court's specific questions were addressed.³
- 9 If the Court would be assisted, Counsel can prepare a standalone document that replicates the cross-referenced parts of the updated section 32 analysis / Initial Planning Statement which respond to the Court's specific questions. Counsel notes that this document will be approximately 120 pages (unless further refined by the Council).

DATED this 2nd day of May 2019



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P A C Maw / K J Wyss
Counsel for the Southland Regional Council

³ Memorandum of Counsel for the Council dated 19 October 2018 at [10].