

**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 TOPIC A TABLE OF ISSUES AND PARTIES' INTERESTS
22 May 2019**

Judicial Officer: Judge Borthwick

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WYNNWILLIAMS

**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**).

Topic A Table

2 The Court has requested, by way of email from the Case Manager, Ms Sprott, that the Council produce a final version of the Topic A Table filed under cover of its Memorandum of Counsel dated 31 October 2018.

3 The Council has updated the Table of issues and parties' interests to reflect the various directions of the Court in relation to issues to be included (or excluded) from Topic A¹ and the Memoranda filed by parties withdrawing or notifying their interest in particular issues.

4 The updated Table has been circulated to the parties for their comment, and any responses received by the parties have been addressed.

5 In accordance with the Court's direction the final version of the Topic A Table is attached as **Appendix A**.

Closing submissions

6 As directed by the Court in its Minute dated 30 April 2019, the Council is to file an updated schedule setting out the order of parties and witnesses and include the estimated times for cross-examination and court questions.² This updated schedule is to be filed on Friday 24 May 2019.

7 Counsel is endeavouring to also include a placeholder for closing submissions in this updated hearing schedule. In order to do this, Counsel wishes to clarify when closing submissions are to be given by parties that are not calling evidence.

8 In its Minute dated 30 April 2018, the Court stated that all parties may give a closing submission at the end of evidence called in support of their appeal or, with leave of the court, at the end of the hearing.³

9 Leave was reserved for the parties to apply for further directions.⁴

¹ Including but not limited to the Minute dated 5 November 2018.

² Minute of the Environment Court dated 30 April 2019 at [6]-[9].

³ Minute of the Environment Court dated 30 April 2019 at [12].

10 Accordingly, Counsel seeks a direction from the Court as to when parties that have not called evidence in support of their appeal will be presenting closing legal submissions.

DATED this 22nd day of May 2019



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

⁴ Minute of the Environment Court dated 30 April 2019 at [14(g)].

Appendix A – Topic A: Horizontal Consideration of pSWLP’s issues, objectives and specified policies

Topic	Relevant Provisions	Appellant/s	Section 274 parties
A1 Issues (including state of the environment matters) and Physiographic Zones (pp19-22)	“Issues” (including state of the environment matters) at pages 15-18	Southland Fish & Game Council (Fish & Game) ¹ Waihopai Rūnaka, Hokonui Rūnaka, Te Rūnanga o Awarua, Te Rūnanga o Oraka Aparima, and Te Rūnanga o Ngāi Tahu (Ngā Rūnanga) ²	Fonterra Co-Operative Group Ltd (Fonterra) Gore District Council, Southland District Council and Invercargill City Council (Territorial Authorities) Federated Farmers of New Zealand – Southland Province (Federated Farmers) Dairy NZ Ltd Fish & Game Alliance Group Ltd Meridian Energy Ltd
	“Physiographic Zones” at pages 19-22)	Ngā Rūnanga ³ Fish & Game ⁴	Dairy NZ Ltd Fonterra Dairy Holdings Ltd Horticulture New Zealand Meridian Energy Ltd Federated Farmers Royal Forest & Bird Protection Society of New Zealand Inc (Forest & Bird)
A2 Objectives	Objective 2	Fish & Game	Forest & Bird

¹ In relation to its appeal point on the pSWLP’s lack of response to scientific evidence that confirms water quality is degraded.

² In relation to its appeal point seeking to maintain and improve water quality as at 2010.

³ In relation to its appeal point seeking to retain the physiographic zones in the Objectives and Policies and reinstate the physiographic zones in the rules relating to diffuse discharges from agriculture and their effect on water quality.

⁴ In relation to its appeal point on the physiographic zones, in that the pSWLP does not include any method to apply or implement the physiographic approach to managing land use activities which affect water quality.

		Ngā Rūnanga	Fonterra Ballance Agri-Nutrients Limited (Ballance) Horticulture New Zealand Aratiatia Livestock Ltd Federated Farmers Fish & Game
	Objective 6	Fish & Game Ngā Rūnanga Forest & Bird	Forest & Bird Fonterra Ballance DairyNZ Ltd Horticulture NZ Aratiatia Livestock Ltd Alliance Group Ltd Territorial Authorities Meridian Energy Ltd Director-General of Conservation Federated Farmers Fish & Game
	Objective 7	Fish & Game	Forest & Bird Fonterra Ballance Horticulture NZ DairyNZ Ltd

			Alliance Group Ltd Ravensdown Ltd Territorial Authorities Meridian Energy Ltd Director-General of Conservation Ngā Rūnanga
Objective 9	Fish & Game Heritage New Zealand Pouhere Taonga Forest & Bird Ngā Rūnanga	Forest & Bird Fonterra DairyNZ Ltd Horticulture NZ Aratiatia Livestock Ltd Territorial Authorities Meridian Energy Ltd Director-General of Conservation Federated Farmers Fish & Game Ngā Rūnanga	
Objective 9A	Ngā Rūnanga Forest & Bird	Horticulture NZ DairyNZ Ltd Territorial Authorities Meridian Energy Ltd Director-General of Conservation Federated Farmers	

			Fish & Game
Objective 9B	Federated Farmers Ngā Rūnanga Forest & Bird		Forest & Bird Horticulture NZ DairyNZ Ltd Territorial Authorities Meridian Energy Ltd Invercargill Airport Ltd Transpower New Zealand Ltd (Transpower) Director-General of Conservation Federated Farmers Invercargill City Council – Water Manager
Objective 10	Aratiatia Livestock Ltd Meridian Energy Ltd Ngā Rūnanga		Aratiatia Livestock Ltd Cockburn, G & R Kempthorne, R Waiau Rivercare Group Meridian Energy Ltd Director-General of Conservation Federated Farmers English, H Fish & Game Ngā Rūnanga
Objective 13	Fish & Game Alliance Group Ltd		Forest & Bird Fonterra

		<p>Heritage New Zealand Pouhere Taonga</p> <p>Ngā Rūnanga</p> <p>Forest & Bird</p>	<p>Ballance</p> <p>Dairy Holdings Ltd</p> <p>Horticulture NZ</p> <p>DairyNZ Ltd</p> <p>Aratiatia Livestock Ltd</p> <p>Alliance Group Ltd</p> <p>Ravensdown Ltd</p> <p>Territorial Authorities</p> <p>Meridian Energy Ltd</p> <p>Transpower</p> <p>Director-General of Conservation</p> <p>Fish & Game</p> <p>Ngā Rūnanga</p> <p>Federated Farmers</p>
	Objective 13A	<p>Fish & Game</p> <p>Alliance Group Ltd</p> <p>Forest & Bird</p> <p>Ngā Rūnanga</p>	<p>Forest & Bird</p> <p>Fonterra</p> <p>Ballance</p> <p>Dairy Holdings Ltd</p> <p>DairyNZ Ltd</p> <p>Horticulture NZ</p> <p>Alliance Group Ltd</p> <p>Ravensdown Ltd</p>

			Territorial Authorities Transpower Director-General of Conservation Federated Farmers Fish & Game Meridian
	Objective 13B	Alliance Group Ltd Fish & Game Forest & Bird Ngā Rūnanga	Forest & Bird Fonterra Ballance Dairy Holdings Ltd DairyNZ Ltd Horticulture NZ Alliance Group Ltd Ravensdown Ltd Territorial Authorities Transpower Director-General of Conservation Federated Farmers Fish & Game Meridian
	Objective 14	Forest & Bird	Director-General of Conservation Federated Farmers

			Ngā Rūnanga Fish & Game
Objective 17	Forest & Bird		Territorial Authorities Meridian Energy Ltd DairyNZ Ltd Director-General of Conservation Federated Farmers Fish & Game
Objective 18	Alliance Group Ltd Fish & Game Ngā Rūnanga		Forest & Bird Fonterra DairyNZ Ltd Ballance Horticulture NZ Aratiatia Livestock Ltd Alliance Group Ltd Ravensdown Ltd Territorial Authorities Director-General of Conservation Federated Farmers Fish & Game
New Objective X	Meridian Energy Ltd		Aratiatia Livestock Ltd Federated Farmers

			Forest & Bird Fish & Game Ngā Rūnanga Waiau Rivercare Group
A3 Ngāi Tahu Policies	Policy 1	Federated Farmers ⁵	Ngā Rūnanga
	Policy 3	Fish & Game	Forest & Bird Federated Farmers Ngā Rūnanga
A4 Physiographic Policies	Policy 4	Alliance Group Ltd Director-General of Conservation Federated Farmers Fish & Game Forest & Bird Ngā Rūnanga Wilkins Farming Co	Forest & Bird Fonterra Ballance Dairy Holdings Ltd DairyNZ Ltd Aratiatia Livestock Ltd Ravensdown Ltd Director-General of Conservation Federated Farmers Fish & Game Ngā Rūnanga
	Policy 5	Alliance Group Ltd Federated Farmers	Forest & Bird Fonterra

⁵ Mr Darry Sycamore has advised (in his Statement of Evidence dated 15 February 2019 at [32]) that Federated Farmers will not pursue this appeal point further. However, this appeal point has not been formally withdrawn by Federated Farmers.

		<p>Fish & Game</p> <p>Forest & Bird</p> <p>Ngā Rūnanga</p> <p>Wilkins Farming Co</p>	<p>Ballance</p> <p>Dairy Holdings Ltd</p> <p>DairyNZ Ltd</p> <p>Aratiatia Livestock Ltd</p> <p>Ravensdown Ltd</p> <p>Director-General of Conservation</p> <p>Federated Farmers</p> <p>Fish & Game</p> <p>Ngā Rūnanga</p>
	Policy 6	<p>Alliance Group Ltd</p> <p>Fish & Game</p> <p>Forest & Bird</p> <p>Wilkins Farming Co</p>	<p>Forest & Bird</p> <p>Fonterra</p> <p>Ballance</p> <p>Horticulture NZ</p> <p>DairyNZ Ltd</p> <p>Dairy Holdings Ltd</p> <p>Aratiatia Livestock Ltd</p> <p>Ravensdown Ltd</p> <p>Director-General of Conservation</p> <p>Federated Farmers</p> <p>Ngā Rūnanga</p>
	Policy 7	<p>Forest & Bird</p>	<p>Dairy Holdings Ltd</p> <p>Aratiatia Livestock Ltd</p> <p>DairyNZ Ltd</p>

			Federated Farmers Ravensdown Ballance
	Policy 8	Forest & Bird	Aratiatia Livestock Ltd Dairy Holdings Ltd DairyNZ Ltd Director-General of Conservation Federated Farmers Ravensdown Ballance
	Policy 9	Alliance Group Ltd Federated Farmers Fish & Game Forest & Bird Ngā Rūnanga Wilkins Farming Co	Forest & Bird Fonterra Ballance Dairy Holdings Ltd DairyNZ Ltd Aratiatia Livestock Ltd Ravensdown Ltd Director-General of Conservation Federated Farmers Fish & Game Ngā Rūnanga
	Policy 10	Alliance Group Ltd Federated Farmers	Forest & Bird Fonterra

		<p>Fish & Game</p> <p>Forest & Bird</p> <p>Ngā Rūnanga</p> <p>Wilkins Farming Co</p>	<p>Ballance</p> <p>Horticulture NZ</p> <p>Dairy Holdings Ltd</p> <p>DairyNZ Ltd</p> <p>Aratiatia Livestock Ltd</p> <p>Ravensdown Ltd</p> <p>Director-General of Conservation</p> <p>Federated Farmers</p> <p>Fish & Game</p> <p>Chartres, P</p> <p>Ngā Rūnanga</p>
Policy 11		<p>Alliance Group Ltd</p> <p>Federated Farmers</p> <p>Fish & Game</p> <p>Forest & Bird</p> <p>Ngā Rūnanga</p> <p>Wilkins Farming Co</p>	<p>Forest & Bird</p> <p>Fonterra</p> <p>Ballance</p> <p>Dairy Holdings Ltd</p> <p>DairyNZ Ltd</p> <p>Aratiatia Livestock Ltd</p> <p>Ravensdown Ltd</p> <p>Director-General of Conservation</p> <p>Federated Farmers</p> <p>Fish & Game</p> <p>Chartres, P</p> <p>Ngā Rūnanga</p>

	Policy 12	Alliance Group Ltd Federated Farmers Fish & Game Forest & Bird Ngā Rūnanga Wilkins Farming Co	Forest & Bird Fonterra Ballance Dairy Holdings Ltd DairyNZ Ltd Aratiatia Livestock Ltd Ravensdown Ltd Director-General of Conservation Federated Farmers Fish & Game Chartres, P Ngā Rūnanga
A5 FMU Policies	Policy 45	Fish & Game	Forest & Bird Fonterra Ballance Horticulture NZ DairyNZ Ltd Aratiatia Livestock Ltd Alliance Group Ltd Ravensdown Ltd Meridian Energy Ltd Director-General of Conservation Ngā Runanga

	Policy 46	Forest & Bird	Director-General of Conservation Federated Farmers Fish & Game Ngā Rūnanga
	Policy 47	Fish & Game	Forest & Bird Fonterra Horticulture NZ DairyNZ Ltd Meridian Energy Ltd Director-General of Conservation Ravensdown Ltd Ngā Runanga