

**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

(Continued next page)

**MEMORANDUM OF COUNSEL FOR SOUTHLAND REGIONAL COUNCIL IN
RELATION TO THE COUNCIL'S WORK PROGRAMME FOR FRESHWATER
MANAGEMENT UNITS
2 August 2019**

Judicial Officer: Judge Borthwick

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WYNNWILLIAMS

(ENV-2018-CHC-30)

**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
(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 At the close of the Topic A hearing, the Court asked Counsel to confirm whether the Council could change its work programme to include Waituna as a separate Freshwater Management Unit (**FMU**), in order to ascertain whether there is a jurisdictional bar to the Court deciding whether to include the Waituna Lagoon Catchment as a separate FMU in Policy 46 of the pSWLP.
- 3 The Council's revised Progressive Implementation Programme (**PIP**) addresses the FMUs in a general sense, without referring to specific FMUs. The PIP is set out at **Appendix A**. For example, in relation to the plan change to the pSWLP to address the FMU process, the PIP provides:

Stage	Process	Timeline
...
Southland Water and Land Plan – plan change	The pSWLP will need to be amended to include freshwater objectives, limits and targets developed through the community and council process for all FMUs. It must also include policies and methods to achieve those limits, in accordance with the NPS-FM. Components of this are highlighted above.	A Plan Change for freshwater objectives, limits and targets in Southland (that includes all Freshwater Management Units) to be notified by 2022 and operative by 2025.

- 4 Accordingly, if the Court decided to identify the Waituna Lagoon Catchment as a separate FMU in Policy 46 of the pSWLP, no changes would be required to the Council's PIP.
- 5 Therefore, there is no jurisdictional bar to the Court deciding whether to include the Waituna Lagoon Catchment as a separate FMU in Policy 46 of the pSWLP, because doing so would not require a change to the PIP.

- 6 Counsel notes that under the current PIP, the staging of any plan change in relation to a separate Waituna FMU (if the Court decides to amend Policy 46 to include a new FMU) would not change. The PIP identifies that one plan change will be notified that includes all FMUs, therefore under the PIP the plan change to implement the NPS-FM in relation to a separate Waituna FMU would be notified at the same time as all other FMUs (in a single plan change).
- 7 This is consistent with the oral submissions of Counsel given to the Court on 31 July 2019.
- 8 For completeness, as set out in the Closing Legal Submissions dated 31 July 2019, the Council is neutral in relation to whether the Waituna Lagoon Catchment is included as a separate FMU in Policy 46 of the pSWLP.

DATED this 2nd day of August 2019



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



Progressive Implementation Programme

Pursuant to Policy E1 of the National Policy Statement for Freshwater Management 2014 (amended 2017) (the NPS-FM), Environment Southland gives public notice of its revised Progressive Implementation Programme to fully implement the NPS-FM, by establishing freshwater objectives and setting limits, by 31 December 2025.

Environment Southland notified an earlier version of its Progressive Implementation Programme in November 2015. Since that time, both the NPS-FM and the process by which Environment Southland proposes to implement it have changed. Environment Southland, in partnership with Te Ao Marama Incorporated (as the environmental arm of Ngāi Tahu Ki Murihiku), will be working with the communities of Southland to implement the NPS-FM as part of its People, Water and Land Programme.

The People, Water and Land Programme is underpinned by preparatory work evaluating and developing a model of Southland’s economy and a science programme evaluating land use inputs, fluxes and flows, ecosystem health and research reports. Together this work has assisted in developing:

- an understanding of the history and connections within Southland’s economy, and an economic model for the region capable of testing the socio-economic impacts of limits established under the NPS-FM; and
- a strong conceptual understanding of the functioning of natural systems within Southland, which will provide the spatial and temporal context for community engagement and better resource management.

In addition, Council has developed, notified and held hearings on the proposed Southland Water and Land Plan to better manage land use intensification issues and prevent any further decline in water quality. Council has also worked closely with farmers, including the provision of land sustainability advice, such as wintering, nutrient management and riparian planting.

The purpose of the revised Progressive Implementation Programme is to set out the tasks, in stages, to implement the NPS-FM by 31 December 2025. These stages are summarised in the table below.

Stage	Process	Timeline
Communication and engagement	Communicate programme goals, objectives and activities. Engage our communities and businesses in robust discussions about our freshwater.	Underway and ongoing through to 2025.
Ongoing freshwater improvement initiatives – ‘Action on the ground’.	Supporting, facilitating and leading on-ground activities that change land use practices to improve freshwater.	Underway and ongoing beyond 2025.

Stage	Process	Timeline
	Projects are underway in the Waituna, Aparima and Maitara catchments.	
Development of regional targets (swimmability)	Develop and publicly notify final regional (swimmability) targets.	Final regional targets notified prior to 31 December 2018.
Develop freshwater values, targets and objectives.	<p>Through community engagement raise awareness of freshwater and the challenges facing it.</p> <p>Determine the community's values and objectives using a national consistent process for formulating freshwater objectives, for all Freshwater Management Units (FMU's), in accordance with the National Objectives Framework set out in the NPS-FM.</p> <p>Additional values will also be integrated through linking in to the ongoing Murihiku Cultural Monitoring Project.</p>	<p>Underway – an environmental health baseline information is being collated and an inventory of known freshwater values has been compiled.</p> <p>The process to determine freshwater values, targets and objectives for each FMU and the region will occur in stages, beginning in November 2018.</p>
Regional forum	Establish a Southland forum made up of representatives from across the region to act in an advisory role for Council. The forum will advise Council via an agreed policy proposal, of the preferred objectives, limits, methods and timeframes required to achieve the community's values and objectives for freshwater.	Agreed policy position to Council by 2022.
The proposed Southland Water and Land Plan (pSWLP)	<p>The pSWLP was notified in June 2016 and was developed to prevent further degradation of freshwater quality in Southland while limits are developed through the People, Water and Land Programme.</p> <p>The pSWLP implements some objectives and policies from the NPS-FM and outlines the basic process for the future inclusion of five FMU sections of the pSWLP as a future plan change.</p>	Underway – resolution of appeals is subject to court process. The pSWLP could be fully operative as early as the end of 2019.
Southland Water and Land Plan – plan change	The pSWLP will need to be amended to include freshwater objectives, limits and targets developed through the community and council process for all FMUs. It must also include policies and methods to achieve those limits, in accordance with the NPS-FM. Components of this are highlighted above.	A Plan Change for freshwater objectives, limits and targets in Southland (that includes all Freshwater Management Units) to be notified by 2022 and operative by 2025.

Reporting on the staged Progressive Implementation Programme will occur annually in the Council's Annual Report prepared under the Local Government Act 2002.

Information about the National Policy Statement for Freshwater Management 2014 and Environment Southland's Progressive Implementation Programme can be sourced on the

Council's website www.waterandland.es.govt.nz or by phoning Environment Southland's offices on 0800 76 88 45.