

**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)

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**MEMORANDUM OF COUNSEL FOR SOUTHLAND REGIONAL COUNCIL  
REGARDING EXPERT CONFERENCING  
20 September 2019**

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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**  
(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 In its Minute dated 13 September, the Court directed the Council to confer with the parties and file a Memorandum giving the following (preferably agreed) details:
  - (a) the number of persons anticipated to attend each conference;
  - (b) the availability of experts for conferencing on the dates indicated;
  - (c) the estimated time required for conferencing;
  - (d) facilities required; and
  - (e) if Christchurch would be the best venue and if not, then the most suitable location for conferencing.
- 3 Counsel for the Council has conferred with the parties in relation to the details requested. The details requested are set out in turn below.
- 4 This Memorandum also advises the Court that a recorder / scribe has been arranged for both expert conferences, and seeks leave for Mr Rodway to not attend the expert conference on 14 to 16 October 2019.

**Details requested by Court**

- 5 Counsel notes that responses to our request for details from the parties were received from all parties that had an expert present at the 4 September facilitated meeting, with the exception of Waiau Rivercare Group. Counsel for Waiau Rivercare Group advised that he was still awaiting instructions as at 4pm today, and accordingly would file a separate Memorandum upon receiving instructions.
- 6 In light of the responses received from the parties, the details requested by the Court are as follows.

*Number of persons anticipated to attend each conference*

- 7 The parties have advised that there will be 12 attendees at the October conference, and 13 attendees at the November conference.

- 8 The experts in attendance at these conferences will be:
- (a) Dr Ton Snelder
  - (b) Nick Ward
  - (c) Ewen Rodway<sup>1</sup>
  - (d) an aquatic ecologist for the Council (TBC)
  - (e) Dr Adam Canning
  - (f) Kathryn McArthur
  - (g) Emily Funnell
  - (h) Dr Jane Kitson
  - (i) Ailsa Cain
  - (j) Dr Mark James
  - (k) Dr Cathy Kilroy
  - (l) Susan Bennett
  - (m) Justin Kitto

*Availability of experts for conferencing*

- 9 Counsel asked the parties to advise as to the availability of their expert witnesses for the dates 14 to 16 October 2019 and the weeks of 11 November and 18 November 2019.
- 10 The parties have advised the following availability issues for those dates:
- (a) Mr Rodway (Council) is unavailable on 14 to 16 October. This is addressed further at paragraphs 23 to 26 below.
  - (b) Ms Cain (Ngā Rūnanga) is unavailable on 14 October.
  - (c) Dr Kitson (Ngā Rūnanga) is unavailable on 11 November and 13 November.
  - (d) Dr James (Meridian / Alliance) and Dr Kilroy (Meridian) are unavailable on 11 November, 15 November, and 18 to 19 November.

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<sup>1</sup> Counsel notes that Mr Rodway is only able to attend the November conference, as set out at paragraphs 23 to 26 below.

- 11 Based on availability, Counsel for the Council proposes that the second expert conference (should it be required)<sup>2</sup> take place on 20 to 22 November 2019.

*Estimated time required for conferencing*

- 12 Counsel confirms that the parties consider two to three days will be required to complete each expert conference.

*Facilities required*

- 13 In relation to the facilities required, parties have requested that the following facilities be available to the experts during the conference:
- (a) wireless internet access;
  - (b) computer;
  - (c) projector; and
  - (d) whiteboard.
- 14 Counsel confirms that the scribe will supply a computer for their use during the conferences.

*Location*

- 15 In relation to the most suitable location for conferencing, Counsel notes the advice from the Court that Commissioners Hodges and Gysberts would prefer that the October expert conference be held in Christchurch, due to existing commitments in Christchurch immediately following the completion of the expert conferencing.
- 16 Of the responses received from the parties, all parties confirmed that Christchurch is a suitable location for the October expert conference.
- 17 Counsel for the Council requests, however, that the expert conference scheduled for November be held in Invercargill due to familial commitments of one of the Council's experts.
- 18 No party expressed any issue with either of the conferences being held in Invercargill, with some parties noting that it was their preference, therefore Council considers that this will not cause prejudice to any

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<sup>2</sup> In accordance with the Court's direction at paragraph [17(d)] of its Minute dated 13 September, the parties are to confirm if this conference is required by Tuesday 29 October 2019.

party. Further, Counsel notes the preliminary advice from the Court that it is unlikely to have an issue with this conference taking place in Invercargill.

- 19 Accordingly, Counsel suggests that the most suitable location for the October expert conference is Christchurch, and the most suitable location for the November expert conference is Invercargill.

#### **Provision of a scribe**

- 20 Counsel advises that the Regional Council is able to make Jan Brown, an Executive Assistant at the Council, available for both of the proposed expert conferences, to assist with the preparation of the Joint Witness Statements.
- 21 Ms Brown has extensive experience in taking minutes / recording meetings but does not have any technical expertise in freshwater quality or ecology. She has not had any involvement in the development of the pSWLP or the pSWLP appeals process, except that she acted as recorder for the expert conferencing that took place in May this year.
- 22 Counsel asked the parties to advise if they were comfortable with Ms Brown acting as recorder for the conference. No opposition to her involvement was received.

#### **Leave sought for Mr Rodway**

- 23 In its Minute dated 13 September, the Court directed that Ms Cain and Mr Rodway are to attend both expert conferences.
- 24 As Mr Rodway raised in the facilitated meeting of the parties on 3 September, he is unavailable for three weeks in October. Those weeks coincide with the 14 to 16 October expert conference.
- 25 Accordingly, Counsel respectfully seeks leave for Mr Rodway to not attend the expert conference on 14 to 16 October.
- 26 Mr Rodway will continue to be updated as to the progress with the work programme, and will be available to the experts should they require his expertise in groundwater both in advance of and after the expert conference.

**Directions sought**

27 Counsel for the Council respectfully seeks leave from the Court for Mr Rodway be excused from attending the expert conference on 14 to 16 October.

**DATED** this 20<sup>th</sup> day of September 2019



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