

**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)

(Continued next page)

**MEMORANDUM OF COUNSEL FOR SOUTHLAND REGIONAL COUNCIL IN
RESPECT OF THE SCOPE TO INCLUDE THE DEFINITIONS OF WETLAND
AND NATURAL WETLAND
14 November 2018**

Judicial Officer: Judge Borthwick and Judge Hassan

**WYNN WILLIAMS
LAWYERS
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WILKINS FARMING CO
(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, SOUTHLAND
PLANTATION FOREST COMPANY OF NZ,
SOUTHWOOD EXPORT LIMITED**
(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 5 November 2018, the Court directed that the Topic A hearing include the definitions of "wetland" and "natural wetland".¹
- 3 The Court also directed:²
 - (a) Ngā Rūnanga³ to clarify whether it proposes amendments to the definition of a "wetland" and "natural wetland" and if so, setting out the proposed amendments; and
 - (b) any party opposing the inclusion of the definitions on the grounds that it is beyond the scope of an appeal, are to file a memorandum by 15 November 2018 seeking a procedural determination, with any replies (in opposition or support) to be filed by 23 November 2018.
- 4 Although the Council does not wish to oppose the inclusion of the definitions on the grounds that it is beyond the scope of an appeal, the Council does wish to briefly clarify its position for the Court and the parties.
- 5 Ngā Rūnanga has now confirmed that it is not an appellant to the definitions and has not proposed any changes to the definitions on that basis.⁴
- 6 Ngā Rūnanga also confirms that while the Council considers the definitions should be Topic B matters, Ngā Rūnanga continues to consider that the definitions should be heard as part of Topic A.⁵

¹ Minute of the Environment Court dated 5 November 2018 at [17].

² Minute of the Environment Court dated 5 November 2018 at [19].

³ Waihopai Rūnaka, Hokonui Rūnaka, Te Rūnanga o Awarua, Te Rūnanga o Oraka Aparima, and Te Rūnanga o Ngāi Tahu (collectively Ngā Rūnanga).

⁴ Memorandum of Counsel for Ngā Rūnanga Regarding Topic A and Wetlands Definition dated 9 November 2018 at [4].

⁵ Memorandum of Counsel for Ngā Rūnanga Regarding Topic A and Wetlands Definition dated 9 November 2018 at [5] and [9].

- 7 Counsel for the Council notes that the Court has already directed that the definitions of “wetland” and “natural wetland” be included in the Topic A hearing.⁶ The Council does not wish to challenge that direction.
- 8 Further, as Horticulture New Zealand has appealed the definitions of “wetland” and “natural wetland”, Counsel also considers that there is scope in the Horticulture New Zealand appeal to consider changes to the definitions as part of the pSWLP appeal proceedings.⁷
- 9 The Appellant (Horticulture New Zealand) and section 274 parties⁸ in respect of the appeal on the definitions of “wetland” and “natural wetland” are as set out in Appendix A of the Memorandum of Counsel for the Southland Regional Council dated 31 October 2018.⁹ The relevant excerpt from Appendix A is set out below for ease of reference.

Relevant provisions	Appellant	Section 274 parties
Definitions of “wetland” and “natural wetland”	Horticulture NZ	Ngā Rūnanga Federated Farmers Ravensdown Forest & Bird Department of Conservation

DATED this 14th day of November 2018



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

⁶ Minute of the Environment Court dated 5 November 2018 at [17].

⁷ Notice of Appeal by Horticulture New Zealand, appeal points 5 and 6, pp 10-11.

⁸ Being Ngā Rūnanga, Federated Farmers of New Zealand – Southland Province, Ravensdown Limited, Royal Forest & Bird Protection Society of New Zealand Inc, and Director-General of Conservation.

⁹ Memorandum of Counsel for the Southland Regional Council re Topic A dated 31 October 2018 at 17 (noting that Ngā Rūnanga has confirmed that it is not an appellant on these provisions).