

**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**  
**13 October 2021**

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Judicial Officer: Judge Borthwick

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Respondent's Solicitor  
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**WYNNWILLIAMS**

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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**  
(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 4 October 2021, the Court directed that parties file a memorandum setting out, among other things, any disputes regarding issues of fact, opinion, or law, and advise the court of the number of expert witnesses it will call and their availability for expert conferencing. These matters are detailed below.

**Issues of fact and opinion to be resolved and legal issues to be decided**

- 3 At paragraph [15] of the Minute, the parties are directed to advise whether they agree with the issues of fact and opinion to be resolved and legal issues to be decided.

*Issues to be resolved*

- 4 Other than the amendments set out below, Counsel considers that the issues set out in Appendix A and B of the Memorandum dated 25 September 2021 are correct.
- 5 Counsel advise that an additional issue has been resolved following the filing of the 25 September Memorandum. Topic B1 Issue 14 has now been resolved, with the appeal point to be withdrawn by the appellant.
- 6 Further, the following issues were included in the list of unresolved issues in error. Each of these issues have been withdrawn by the relevant appellant and therefore the issue is resolved.
  - (a) Topic B5 Issue 34;
  - (b) Topic B5 Issue 50;
  - (c) Topic B5 Issue 79; and
  - (d) Topic B5 Issue 91.

*Legal issues to be decided*

- 7 Counsel wishes to raise a legal issue as to the scope of two appeal points. This legal issue relates to the appeal of Wilkins Farming Company (**Wilkins**), specifically in relation to Topic B1 Issues 6 and 17.

- 8 In relation to Issue 6, Counsel for the Council considers that, on the face of Wilkins' original submission, there does not appear to be scope for the amendments sought in its appeal.
- 9 In relation to Issue 17, Counsel for the Council considers that Wilkins' appeal seeks changes to the pSWLP which are wider in scope than its original submission.
- 10 Counsel notes that there may be additional issues in relation to scope that become apparent once the changes sought by parties are known (for example, after the filing of Will Say Statements or evidence). Should any such scope issues become apparent, Counsel will raise these with the Court at the earliest possible opportunity.

#### **Number of witnesses**

- 11 The Council intends to call the following expert witnesses:
- (a) Matthew McCallum-Clark (planning);
  - (b) Lauren Maciaszek (planning);
  - (c) Dr Ton Snelder (water quality);
  - (d) an additional water quality expert, to be confirmed;
  - (e) Dr Greg Burrell (freshwater ecology);
  - (f) Dr Kelvin Lloyd (wetland ecology);
  - (g) Dr Ross Monaghan (farm advisory / farm systems);
  - (h) a water quantity expert, to be confirmed;
  - (i) an Environment Southland compliance officer, to be confirmed;  
and
  - (j) a cultural witness, to be confirmed.

#### **Availability of witnesses for expert conferencing**

- 12 Other than where specified below, all of the confirmed witnesses for the Council are available for the entirety of the period between 22 November and 10 December 2021.
- 13 Dr Greg Burrell is unavailable from 15 to 19 November, and for one or two days during the week of 22 November (for a plan change hearing in Christchurch, exact day/s to be confirmed).

14 Dr Ross Monaghan is unavailable on 29 and 30 November.

**DATED** this 13<sup>th</sup> day of October 2021

A handwritten signature in blue ink, appearing to read 'P. A. C. Maw', is positioned above a horizontal dotted line.

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