

**IN 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 LIMITED

(ENV-2018-CHC-27)

HORTICULTURE NEW ZEALAND

(ENV-2018-CHC-28)

ARATIATIA LIVESTOCK LIMITED

(ENV-2018-CHC-29)

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**MEMORANDUM OF COUNSEL FOR THE DAIRY INTERESTS
IN RESPONSE TO RESPONDENT'S COMMENTS**

17 February 2023

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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)

STONY CREEK STATION LIMITED

(ENV-2018-CHC-42)

THE TERRACES LIMITED

(ENV-2018-CHC-43)

CAMBELL'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 NGĀI TAHU, HOKONUI RUNAKA, WAIHOPAI
RUNAKA, TE RUNANGA O AWARUA & TE RUNANGA O
ORAKA APARIMA**

(ENV-2018-CHC-47)

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 joint memorandum is filed on behalf of DairyNZ Limited and Fonterra Co-operative Group Limited (**the Dairy Interests**). It relates to the reporting memorandum filed by the Regional Council on 9 February and the Court Minutes of 10 and 15 February 2023.
- 2 In its 15 February Minute the Court enlarged the timeframe for parties to respond to the Regional Council's responses to the questions/ direction at paragraphs 231, 279, 313, 314, 375, 397-399 and 455 of the Fifth Interim Decision to today.
- 3 This memorandum responds to two outstanding matters not addressed in the Dairy Interests earlier memorandum, namely:
 - 3.1 Whether there is scope to:
 - 3.1.1 Include the same or similar land or percentage area controls as in Rule 20A(a)(i) and (ia) for Rule 20B; and
 - 3.1.2 To include as a standard in Appendix N, setbacks from water bodies for stock types other than cattle.

Percentage area controls in Rule 20B

- 4 For reasons already stated, the Dairy Interests do not support a separate Rule 20B in addition to Rule 20. That aside, while it is accepted that there may be scope to include a percentage area control for pasture-based wintering, the evidence presented on this point was limited, and did not support adopting the same or similar area control to that for intensive winter grazing (**IWG**).
- 5 The Farm Systems Joint Witness Statement at [11] records:

We think that all the good management measures relevant to slope, setbacks and critical source areas for intensively managed winter crops (IWG) are also relevant to high-risk pasture winter grazing systems, although, assuming that pasture does provide some level of soil armouring or protection, and a more developed rooting structure, the degree or extent of requirement for these good management measures is likely to be less. However, we currently do not have the scientific basis to provide a revised set of qualitative standards/ thresholds.

Because there is likely to be less risk associated with high-risk pasture wintering than IWG, the area limit for high-risk pasture wintering should not align with IWG of forage crops.

- 6 Further, and as has been identified in the memorandum filed on behalf of Fish and Game and Forest and Bird, constraining the area of pasture-based wintering could incentivise IWG. For this reason, the Dairy Interests do not support an area control for Rule 20B.
- 7 Should the Court consider it necessary to impose a percentage area control in Rule 20B, the Dairy Interests may wish to be heard on what an appropriate limit might be.

Setbacks from waterbodies for stock types other than cattle

- 8 This is not an issue of particular interest to the Dairy Interests; however, they would support a standard in Appendix N, which introduces setbacks in waterbodies for deer and pigs (in accordance with the Resource Management (Stock Exclusion) Regulations 2020), if scope was found to do so.

Dated 17 February 2023



Katherine Forward

Solicitor for DairyNZ Limited and on behalf of Counsel for Fonterra Co-operative Group Limited.