

**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)*

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**MEMORANDUM OF COUNSEL FOR THE SOUTHLAND REGIONAL  
COUNCIL REGARDING SCHEDULE X MAPS**

**24 May 2023**

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Judicial Officer: Judge Borthwick

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**WILKINS FARMING CO**  
(ENV-2018-CHC-30)

**GORE DISTRICT COUNCIL, SOUTHLAND DISTRICT  
COUNCIL & INVERCARGILL CITY 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

### Introduction

- 1 This Memorandum of Counsel is filed on behalf of the Southland Regional Council (**Council**) and responds to the Court's direction in its Seventh Interim Decision, specifically:<sup>1</sup>

[25] By **Wednesday 24 May 2023** SRC will respond to the issue raised by the court concerning the inclusion of DIN and DRP maps and layer plans and if TP and TN were intended, then producing the same.

### Schedule X maps

- 2 At paragraph [8] of the Court's Seventh Interim Decision, the Court made the following observation with respect to the Schedule X maps:

[8] SRC has reported on the maps to be appended to Schedule X, however it has not explained why maps and layer plans for DIN and DRP are included. In context, the mapping of these values is inconsistent with paragraphs [62]-[65] and footnote 94 of the Fifth Interim Decision. If estuarine trophic status is correlated with TN and TP loads, should not TN and TP have been mapped? SRC is directed to respond, producing new maps and layer plans (if appropriate).

### Court's Fifth Interim Decision

- 3 Notwithstanding the Court's findings at [62]-[65], the Court directed the Council to prepare individual maps for nitrogen, phosphorus, suspended sediments, MCI (<90) and *E.Coli*, along with a single map for all attributes.<sup>2</sup>
- 4 In doing so, counsel understood that the Court approved the maps prepared by Dr Snelder, for inclusion in a new schedule, Schedule X.<sup>3</sup>

### DIN and DRP

- 5 Table 1 of Dr Snelder's evidence dated 11 February 2022 described the attributes that he could model and therefore use to construct the

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<sup>1</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2023] NZEnvC 87.

<sup>2</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2022] NZEnvC 265 at footnote 94.

<sup>3</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2022] NZEnvC 265 at [84].



degraded water bodies map.<sup>4</sup> Those attributes included DIN and DRP. Counsel understands that, based on the evidence of Dr Snelder, the DIN and DRP attributes apply to rivers and reflect the in-river concentrations of those contaminants, whereas TN and TP attributes reflect the load concentrations in the estuaries.

- 6 Dr Snelder's evidence also included maps showing degradation status for MCI (Figure 1), TN (Figure 3), and a combined map showing the degradation status for rivers and estuaries based on all attributes shown in Tables 1 and 2 (i.e., including DIN and DRP) in Figure 4.
- 7 This combined map indicates that either the main-stems of the rivers draining the catchments and/or the estuaries that the rivers discharge to, are degraded in terms of one or more of the attributes shown in Tables 1 and 2 of Dr Snelder's evidence.
- 8 On this basis, the maps prepared by the Council in February 2023 included DIN and DRP. The Council did not understand that maps showing catchments degraded in terms of DIN and DRP should not be included, based on the Court's Fifth Interim Decision. However, TN and TP were inadvertently omitted from the maps, and this is addressed further below.

### **TN and TP**

- 9 Counsel understands that the data for TN and TP was inadvertently omitted at the time the Schedule X maps were prepared back in February 2023. That data has since been provided and the online GIS map has been updated to include the TN and TP areas. The maps are accessible via the following link: [Catchment Degradation \(arcgis.com\)](https://arcgis.com)
- 10 Copies of the two maps at a resolution of 1:900,000 are appended to this Memorandum as **Appendix 1**.

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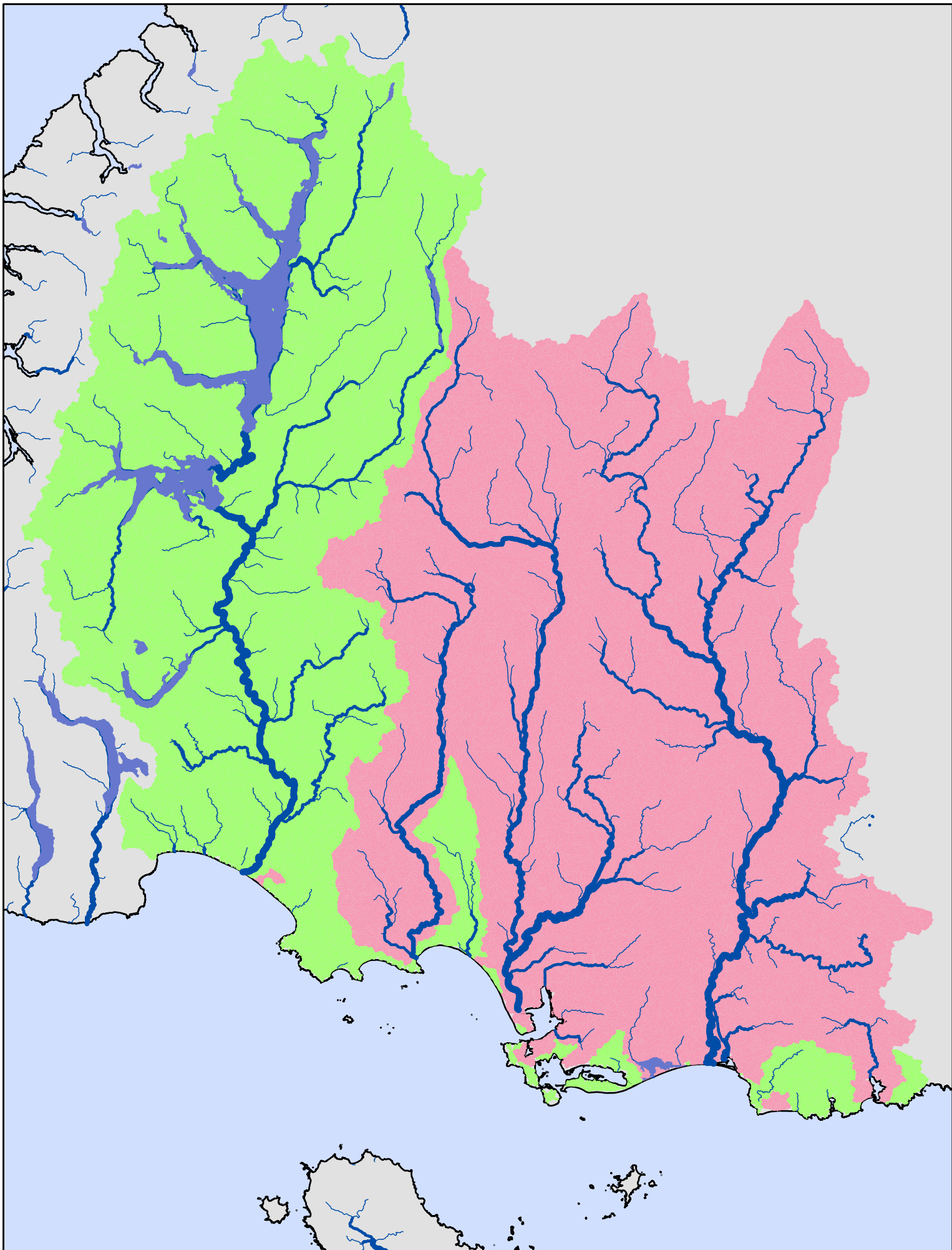
<sup>4</sup> Statement of Evidence of Dr Antonius Snelder on behalf of Southland Regional Council – Water Quality dated 11 February 2022, Table 1 at page 13.

**DATED** this 24<sup>th</sup> day of May 2023

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

**P A C Maw / I F Edwards**  
Counsel for the Southland Regional Council

**Appendix 1 – Individual maps of TN and TP**



Catchment Degradat on  
Status for TN

Date: 23/05/2023

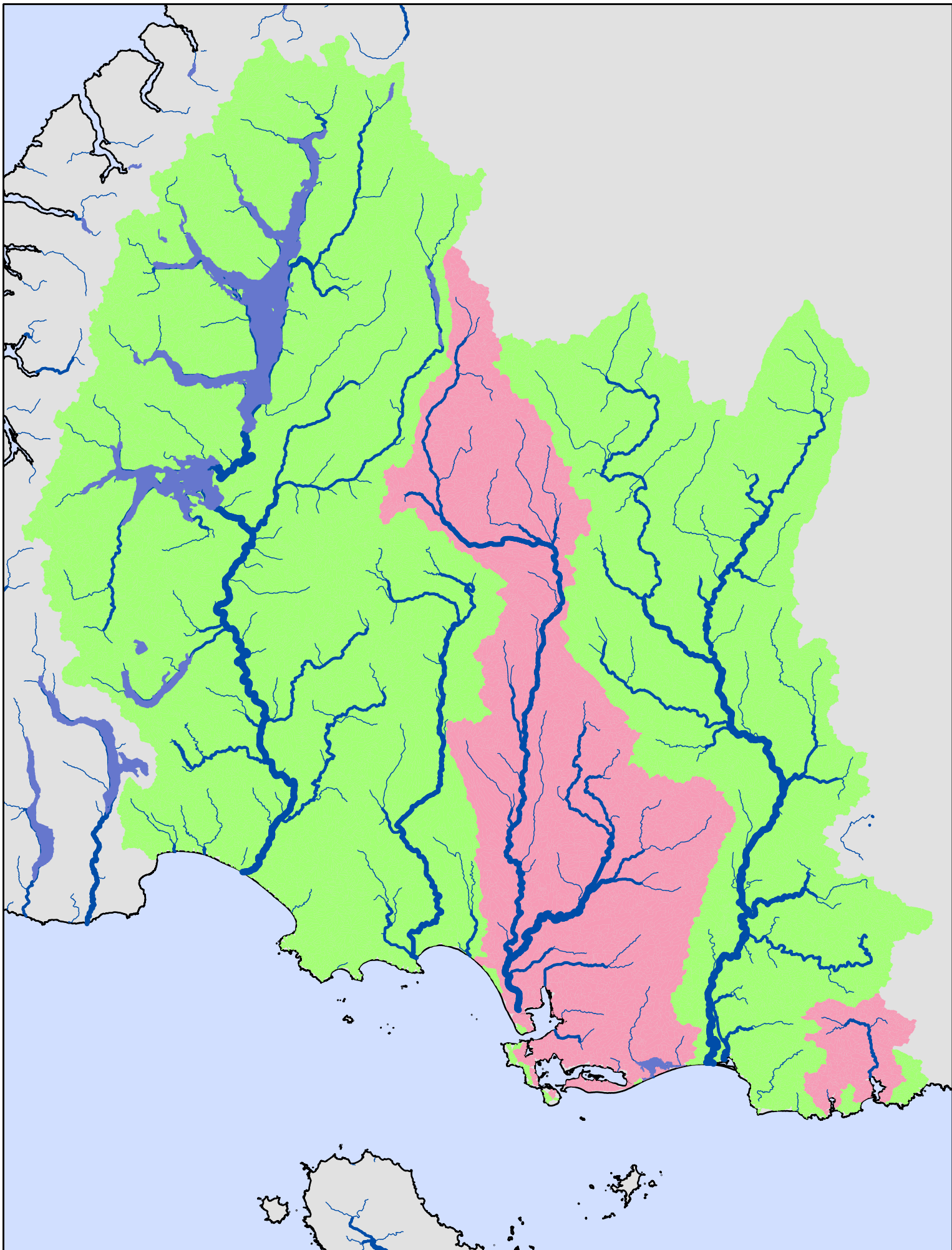
- Degraded catchment
- Not-degraded

**DISCLAIMER**  
 Environment Southland uses reasonable endeavours but does not warrant that this informat on is current, complete or accurate. Professional or specialist advice should be obtained before taking or refraining from taking any act on on the basis of this informat on. To the extent permit ed by law, Environment Southland will not be liable for any loss, liability or costs suf erred or incurred as a result of any reliance placed on this informat on.

1: 900,000  
 At A4

DATA SOURCE: ES GIS 2023





Catchment Degradat on  
Status for TP

Date: 23/05/2023

- Degraded catchment
- Not-degraded

1: 900,000  
At A4

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DATA SOURCE: ES GIS 2023