

**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
PROVIDING A HEARING SCHEDULE FOR TRANCHE 1
1 March 2022**

Judicial Officer: Judge Borthwick

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WYNNWILLIAMS

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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

- 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.
- 2 The Court directed¹ the Council to, having conferred with the parties, produce a hearing schedule that allows for parties' submissions and (where relevant) estimated time for cross-examination and re-examination following the Court's questions.
- 3 Counsel for the Council has liaised with the parties and produced a hearing schedule on the basis of their responses and the Court's requirements. This is attached as **Appendix A**.

General matters

- 4 As directed, 45 minutes has been allowed in respect of each witness for the Court's questions.
- 5 In respect of time allowed for re-examination, Counsel considers that this is an unknowable quantity until cross-examination is underway/has been completed. No specific time has been allowed for re-examination in the hearing schedule. Rather, Counsel considers that the hearing schedule will likely have some 'unders and overs' which it expects will allow time (if required) for re-examination without significant issue.

All of parties hearing

- 6 For the purposes of the 'all of parties' hearing, the evidence has been sequenced as follows:
 - (a) First, the deponent of the affidavit supporting consent orders (i.e., the planning witness);
 - (b) Second, any technical witness(es) required to support the parties' agreed position; and
 - (c) Last, the deponent planner again (if required for any follow-up questions following the technical evidence).

¹ Record of Pre-Hearing Conference dated 15 February 2022 at [42](g)(i).

- 7 Counsel considers this sequencing will provide the Court with a comprehensive picture of the topic and changes agreed first, with any technical details then addressed by the technical expert. Should the Court (or parties) have questions of the planner following the technical evidence, this sequencing allows for any follow-up questions of the planner.

Disputed hearing

- 8 For the purposes of the disputed hearing, the evidence has been sequenced on the following basis:
- a. Opening legal submissions from each party;
 - b. Lead planner for SRC (Mr McCallum Clark);
 - c. Technical witnesses by topic, in the following categories
 - i. Cultural;
 - ii. Water Quality and Freshwater Ecology;
 - iii. Farm Systems; and
 - iv. Lay witnesses;
 - d. Planning witnesses; and
 - e. Closing legal submissions.
- 9 Counsel has not yet scheduled closing submissions. These will be added to the schedule once it becomes clear which parties wish to make closing submissions.
- 10 There are some instances where counsel and particular witnesses are unavailable. These instances have been recorded in footnotes. The schedule may need to be adjusted to accommodate these instances once precise hearing dates are known.
- 11 It is noted that more time is scheduled within each day than the day actually allows (i.e. a day beginning at 10am and ending at 5pm allows 5.5 hours of hearing time. The schedule, on its face, proposes to cover more than 6 hours worth of material within that 5.5 hours). It is Counsel's experience that the time actually required for cross-examination is frequently less than that estimated, particularly where a witness has already been cross-examined by multiple counsel on the

same topic. Accordingly, counsel considers that this schedule reflects a realistic estimate of the hearing time required.

DATED this 1st day of March 2022

A handwritten signature in blue ink that reads "P. Maw".

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

All of parties hearing

Hearing Dates	Witness		Time allowed
Monday 14 March 2022	Legal submissions	Southland Regional Council (SRC)	60 minutes
	Topic B1		
	Lauren Maciaszek (planning)	Lead by SRC (Philip Maw)	30 minutes
		Court questions	45 minutes
		Questions arising (if any)	20 minutes
	Zane Moss (technical)	Lead by SRC (Philip Maw)	15 minutes
		Court questions	45 minutes
		Questions arising (if any)	20 minutes
	Lauren Maciaszek (planning)	Further court questions (if any)	15 minutes
		Questions arising (if any)	5 minutes
Day 2	Topic B2		
	Matthew McCallum-Clark (planning)	Lead by SRC (Philip Maw)	30 minutes
		Court questions	45 minutes
		Questions arising (if any)	20 minutes
	Roger Hodson (technical)	Lead by SRC (Philip Maw)	15 minutes

Hearing Dates	Witness		Time allowed	
		Court questions	45 minutes	
		Questions arising (if any)	20 minutes	
	Cain Duncan ¹ (technical)	Lead by SRC (Philip Maw)	15 minutes	
		Court questions	45 minutes	
		Questions arising (if any)	20 minutes	
	Matthew McCallum-Clark (planning)	Further court questions (if any)	15 minutes	
		Questions arising (if any)	5 minutes	
	Topic B3			
	Day 3	Lauren Maciaszek (planning)	Lead by SRC (Philip Maw)	20 minutes
			Court questions	45 minutes
Questions arising (if any)			20 minutes	
Topic B4				
Matthew McCallum-Clark (planning)		Lead by SRC (Philip Maw)	20 minutes	
		Court questions	45 minutes	

¹ Unavailable 30 and 31 May

Hearing Dates	Witness		Time allowed
		Questions arising (if any)	20 minutes
	Topic B5		
	Matthew McCallum-Clark (planning)	Lead by SRC (Philip Maw)	45 minutes
		Court questions	45 minutes
		Questions arising (if any)	20 minutes
	Day 4	Ross Monaghan (technical)	Lead by SRC (Philip Maw)
Court questions			45 minutes
Questions arising (if any)			20 minutes
Christopher Phillips (technical)		Lead by SRC (Philip Maw)	15 minutes
		Court questions	45 minutes
		Questions arising (if any)	20 minutes
Matthew McCallum-Clark (planning)		Further court questions (if any)	15 minutes
		Questions arising (if any)	5 minutes
Topic B6			
Hannah Goslin (planning)		Lead by SRC (Philip Maw)	15 minutes

Hearing Dates	Witness		Time allowed
		Court questions	45 minutes
		Questions arising (if any)	20 minutes
	Topic B7		
	Matthew McCallum-Clark (planning)	Lead by SRC (Philip Maw)	15 minutes
		Court questions	45 minutes
		Questions arising (if any)	20 minutes
Day 5	Closing Legal Submissions (if required)		

Disputed provisions hearing

Hearing Dates	Party			Counsel cross-examining	Time allowed
Day 1	All parties	Opening legal submissions	Southland Regional Council (SRC) (Philip Maw)		1 hour
			Aratiatia Livestock (Douglas Allan)		30-45 minutes
			Ballance Agri-Nutrients (Megan Exton)		30 minutes
			Beef and Lamb (Chris Thomsen) ²		30 minutes
			Dairy Interest Parties (Katherine Forward)		30-45 minutes
			Director General of Conservation (Pene Williams)		30-40 minutes
			Federated Farmers (Bronwyn Carruthers)		30-40 minutes

² Prefer to avoid week of 30 may, unavailable 6/7 June

Hearing Dates	Party			Counsel cross-examining	Time allowed
			Forest and Bird/Fish and Game (Sally Gepp)		1 hour, 30 minutes
			Hamish English (Kristy Rusher)		15-30 minutes
			Nga Runanga (James Winchester/Sal Lennon)		30 minutes
			Meridian Energy (Stephen Christensen)		20 minutes
			Rayonier (Chris Fowler)		15-20 minutes
Day 2	All parties (cont.)	Opening legal submissions (cont.)	Wilkins (Bronwyn Carruthers)		30-40 minutes
			Ravensdown (Mark Christensen ³)		30-45 minutes

³ Would prefer Appendix N issues to be heard in week of 4 April, supposed to be on leave week of 11 April

	Southland Regional Council	Matthew McCallum Clark	Lead by Philip Maw		10 minutes
			Cross Examination	Aratiatia Livestock Limited (Douglas Allan)	15 minutes
				Beef and Lamb (Chris Thomsen ⁴)	10 minutes
				Dairy Interest Parties (Katherine Forward)	10 minutes
				Director-General of Conservation (Pene Williams)	15 minutes
				Forest and Bird / Fish and Game (Sally Gepp)	20 minutes
			Court Questions		45 minutes
	Cultural				
Nga Runanga	Ailsa Cain	Lead by James Winchester/Sal Lennon		5 minutes	

⁴ Prefer to avoid week of 30 may, unavailable 6/7 June

			Cross Examination	SRC (Philip Maw)	1 hour	
				Forest and Bird / Fish and Game (Sally Gepp)	5 minutes	
			Court Questions		45 minutes	
	Freshwater Quality and Freshwater Ecology					
	Southland Regional Council	Dr Antonius Snelder	Lead by SRC (Philip Maw)		5 minutes	
			Cross examination	Dairy Interest Parties (Katherine Forward)	10 minutes	
				Forest and Bird / Fish and Game (Sally Gepp)	10 minutes	
			Hamish English (Kristy Rusher)	20 minutes		
	Court Questions		45 minutes			

		Dr Gregory Burrell	Lead by Philip Maw		5 minutes
			Cross Examination	Director-General of Conservation (Pene Williams)	15 minutes
				Forest and Bird / Fish and Game (Sally Gepp)	10 minutes
			Court Questions		45 minutes
Day 3	Forest and Bird / Fish and Game	Kathryn McArthur	Lead by Sally Gepp		5 minutes
			Jane Kitson	Cross Examination	SRC (Philip Maw)
		Dairy Interest Parties (Katherine Forward)			10 minutes
		Director-General of Conservation (Pene Williams)			15 minutes
			Hamish English (Kristy Rusher)	10 minutes	
Court Questions		45 minutes			

	Ngā Rūnanga		Lead by James Winchester/Sal Lennon		5 minutes
			Court Questions		45 minutes
			Cross Examination	SRC (Philip Maw)	1 hour
				Dairy Interest Parties (Katherine Forward)	10 minutes
				Director-General of Conservation (Pene Williams)	15 minutes
				Forest and Bird / Fish and Game (Sally Gepp)	10 minutes
	Court Questions		45 minutes		
	Dairy Interest Parties	Craig Depree	Lead by Katherine Forward		5 minutes
			Cross Examination	SRC (Philip Maw)	1 hour
				Forest and Bird / Fish and Game (Sally Gepp)	20 minutes

				Ngā Rūnanga (James Winchester/Sal Lennon)	20 minutes
			Court Questions		45 minutes
Day 4	Director-General of Conservation	Emily Funnell ⁵	Lead by Pene Williams		5 minutes
			Cross Examination	SRC (Philip Maw)	1 hour
				Dairy Interest Parties (Katherine Forward)	10 minutes
				Forest and Bird / Fish and Game (Sally Gepp)	10 minutes
	Court Questions		45 minutes		
	Forest and Bird / Fish and Game	Adam Canning ⁶	Lead by Sally Gepp		5 minutes
			Cross Examination	SRC (Philip Maw)	1 hour
				Dairy Interest Parties (Katherine Forward)	10 minutes
Court Questions				45 minutes	

⁵ Does not work Friday, not available 21 March (Otago Anniversary Day)

⁶ Only available weeks 2 and 4

Day 5	Farm Systems				
	Beef and Lamb	Thomas Orchiston	Lead by Chris Thomsen ⁷		5 minutes
			Cross examination	SRC (Philip Maw)	1 hour
			Court Questions		45 minutes
		Rene Corner-Thomas	Lead by Chris Thomsen ⁸		5 minutes
			Cross examination	SRC (Philip Maw)	1 hour
			Court Questions		45 minutes
	Dairy Interest Parties	Cain Duncan	Lead by Katherine Forward		5 minutes
			Cross Examination	SRC (Philip Maw)	1 hour
				Aratiatia Livestock (Douglas Allan)	15 minutes
Forest and Bird / Fish and Game (Sally Gepp)				10 minutes	
Court Questions				45 minutes	

⁷ Prefer to avoid week of 30 may, unavailable 6/7 June

⁸ Prefer to avoid week of 30 may, unavailable 6/7 June

Day 6		Dawn Dalley ⁹	Lead by Katherine Forward		5 minutes
			Cross Examination	SRC (Philip Maw)	1 hour
				Aratiatia Livestock (Douglas Allan)	15 minutes
			Court Questions		45 minutes
	Ravensdown	Anna Wilkes	Lead by Mark Christensen		5 minutes
			Cross Examination	SRC (Philip Maw)	1 hour
				Director-General of Conservation (Pene Williams)	15 minutes
Forest and Bird / Fish and Game (Sally Gepp)			10 minutes		
Court Questions		45 minutes			
Day 7	Southland Regional Council	Dr Ross Monaghan	Lead by SRC (Philip Maw)		5 minutes

⁹ Unavailable 8-9 June

			Cross examination	Aratiatia Livestock (Douglas Allan)	15 minutes
				Dairy Interest Parties (Katherine Forward)	10 minutes
				Forest and Bird / Fish and Game (Sally Gepp)	5 minutes
				Hamish English (Kristy Rusher)	20 minutes
			Court Questions	45 minutes	
	Wilkins Farming Limited	Thomas Orchiston	Lead by Bronwyn Carruthers		5 minutes
			Cross examination	SRC (Philip Maw)	1 hour
			Court Questions		45 minutes
	Lay Witness				
	Federated Farmers	Bernadette Hunt	Lead by Bronwyn Carruthers		5 minutes
Cross Examination			SRC (Philip Maw)	30 minutes	

				Forest and Bird / Fish and Game (Sally Gepp)	10 minutes
			Court Questions		45 minutes
		Geoffrey Young	Lead by Bronwyn Carruthers		5 minutes
			Cross examination	SRC (Philip Maw)	1 hour
			Court Questions		45 minutes
Day 8	Hamish English	Hamish English	Lead by Kristy Rusher		5 minutes
			Cross examination	SRC (Philip Maw)	30 minutes
			Court Questions		45 minutes
	Wilkins Farming Limited	Sean Wilkins	Lead by Bronwyn Carruthers		5 minutes
			Cross examination	SRC (Philip Maw)	1 hour
			Court Questions		45 minutes

Planning					
	Aratiatia Livestock	Claire Jordan	Lead by Douglas Allan		5 minutes
			Cross examination	SRC (Philip Maw)	2 hours
			Court Questions		45 minutes
Day 9	Ballance Agri-Nutrients	Sue Ruston	Lead by Megan Exton		5 minutes
			Cross Examination	SRC (Philip Maw)	2 hours
				Forest and Bird / Fish and Game (Sally Gepp)	10 minutes
			Court Questions		45 minutes
	Beef and Lamb	Christine Foster	Lead by Chris Thomsen ¹⁰		5 minutes
			Cross Examination	SRC (Philip Maw)	2 hours
Director-General of Conservation (Pene Williams)				15 minutes	

¹⁰ Prefer to avoid week of 30 may, unavailable 6/7 June

				Forest and Bird / Fish and Game (Sally Gepp)	10 minutes
			Court Questions		45 minutes
Day 10	Director-General of Conservation	Linda Kirk	Lead by Pene Williams		5 minutes
			Cross Examination	SRC (Philip Maw)	2 hours
				Beef and Lamb (Chris Thomsen) ¹¹	10 minutes
				Dairy Interest Parties (Katherine Forward)	10 minutes
				Forest and Bird / Fish and Game (Sally Gepp)	15 minutes
	Court Questions		45 minutes		
	Federated Farmers	Peter Wilson	Lead by Bronwyn Carruthers		5 minutes
Cross Examination			SRC (Philip Maw)	2 hours	

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				Dairy Interest Parties (Katherine Forward)	10 minutes
				Forest and Bird / Fish and Game (Sally Gepp)	15 minutes
				Ngā Rūnanga (James Winchester/Sal Lennon)	20 minutes
			Court Questions		45 minutes
	Dairy Interest Parties	Gerard Willis	Lead by Katherine Forward		5 minutes
			Cross Examination	SRC (Philip Maw)	2 hours
				Aratiatia Livestock (Douglas Allan)	15 minutes
				Director-General of Conservation (Pene Williams)	15 minutes
				Forest and Bird / Fish and Game (Sally Gepp)	20 minutes

				Ngā Rūnanga (James Winchester/Sal Lennon)	20 minutes
			Court Questions		45 minutes
Day 11	Forest and Bird / Fish and Game	Ben Farrell	Lead by Sally Gepp		5 minutes
			Cross Examination	SRC (Philip Maw)	2 hours
				Aratiatia Livestock (Douglas Allan)	15 minutes
				Ballance Agri-Nutrients (Vanessa Hamm/Megan Exton)	20 minutes
				Dairy Interest Parties (Katherine Forward)	10 minutes
				Director-General of Conservation (Pene Williams)	15 minutes
				Meridian Energy (Stephen Christensen)	10 minutes
				Ravensdown (Mark Christensen)	10 minutes

			Court Questions		45 minutes
	Meridian Energy	Jane Whyte	Lead by Stephen Christensen		5 minutes
			Cross examination	SRC (Philip Maw)	1 hour
			Court Questions		45 minutes
Day 12	Ngā Rūnanga	Treena Davidson	Lead by James Winchester/Sal Lennon		5 minutes
			Cross examination	SRC (Philip Maw)	2 hours
				Dairy Interest Parties (Katherine Forward)	10 minutes
				Director-General of Conservation (Pene Williams)	15 minutes
				Forest and Bird / Fish and Game (Sally Gepp)	5 minutes
	Court Questions		45 minutes		
Ravensdown	Carmen Taylor	Lead by Mark Christensen		5 minutes	

Day 13			Cross examination	SRC (Philip Maw)	2 hours	
				Forest and Bird / Fish and Game (Sally Gepp)	10 minutes	
			Court Questions		45 minutes	
		Wilkins Farming	Sharon Dines	Lead by Bronwyn Carruthers		5 minutes
				Cross examination	SRC (Philip Maw)	2 hours
				Court Questions		45 minutes
		Southland Regional Council	Lauren Maciaszek	Lead by SRC (Philip Maw)		5 minutes
				Cross examination	Forest and Bird / Fish and Game (Sally Gepp)	10 minutes
				Court Questions		45 minutes
Southland Regional Council		Matthew McCallum Clark	Lead by Philip Maw		10 minutes	
			Cross Examination	Aratiatia Livestock Limited (Douglas Allan)	15 minutes	

				Beef and Lamb (Chris Thomsen ¹²)	10 minutes
				Dairy Interest Parties (Katherine Forward)	10 minutes
				Director-General of Conservation (Pene Williams)	15 minutes
				Forest and Bird / Fish and Game (Sally Gepp)	20 minutes
				Court Questions	45 minutes
Closing Legal Submissions					

¹² Prefer to avoid week of 30 may, unavailable 6/7 June