

**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 AN UPDATED HEARING SCHEDULE FOR TRANCHE 1
5 April 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. It relates to the hearing schedule for the Tranche 1 disputed hearing.
- 2 The Council previously prepared a draft hearing schedule for the Tranche 1 hearing. This was filed with the Court on 1 March 2022.
- 3 Following the all of parties' hearing, and the resulting additional evidence required for the disputed hearing, and the confirmation of hearing dates, Counsel for the Council has sought to update the hearing schedule.
- 4 Counsel has liaised with the parties regarding the proposed amendments to the schedule. The proposed updated schedule is attached as **Appendix A**. As requested by the Court, the proposed updated schedule also includes the relevant hearing dates and the witnesses' expertise.
- 5 A summary of the proposed changes, and a short explanation of the same, is set out below:
 - (a) Mr McCallum-Clark will be called as the first witness, following opening legal submissions from all counsel. Mr McCallum-Clark will (led by Mr Maw) explain the rationale for the amendments agreed as between the Planners, and set out in the Joint Witness Statements for Planning. Mr McCallum-Clark will also answer any questions from the Court on those provisions, and answer any questions from the Court on his Supplementary Statement of Evidence dated 6 April 2022 (relating to Policies 15, 15A, 16A). Following discussion with other Counsel, it is proposed that Mr McCallum-Clark will not be cross-examined at this juncture. Rather, he will be cross-examined on this (and his remaining evidence) when he is recalled at the commencement of the Planning Topic (approximately 2 June 2020). This will allow:
 - (i) Mr McCallum-Clark the opportunity to consider the evidence given by technical witnesses; and
 - (ii) To avoid inefficient duplication of cross-examination of Mr McCallum-Clark.

- (b) The order of evidence has been amended, with the farm systems witnesses to now follow the cultural witness (whereas it was previously set to be the freshwater quality and ecology witnesses to follow the cultural witness). In addition, the lay witnesses are now scheduled to follow the farm systems experts. These changes has been made to accommodate unavailability of witnesses on those topics (including those suffering from Covid).
- 6 Counsel respectfully considers these changes necessary to allow the smooth and efficient running of the hearing and to accommodate unavailability of witnesses. Accordingly, Counsel respectfully seeks the Court's approval of the updated schedule in Appendix A.

DATED this 5th day of April 2022



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

Updated hearing schedule for Tranche 1 - Disputed provisions hearing

Hearing Dates	Party			Counsel cross-examining	Time allowed
Day 1 11 April 2022	All parties	Opening legal submissions	Southland Regional Council (SRC) (Philip Maw)		1 hour
			Territorial Authorities (Michael Garbett) ¹		15 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

¹ Unavailable 12 and 13 April.

² Unavailable 7 – 10 June.

Hearing Dates	Party			Counsel cross-examining	Time allowed
			Federated Farmers (Bronwyn Carruthers)		1 hour
			Forest and Bird/Fish and Game (Sally Gepp)		1 hour, 30 minutes
Day 2 12 April 2022	All parties (cont.)	Opening legal submissions (cont.)	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
			Wilkins (Bronwyn Carruthers)		45-60 minutes
			Ravensdown (Mark Christensen)		30-45 minutes

Hearing Dates	Party			Counsel cross-examining	Time allowed
			Aratiatia Livestock (Douglas Allan) ³		30-45 minutes
Day 3 13 April 2022	Southland Regional Council	Matthew McCallum Clark (Planning)	Lead by Philip Maw		2 hours
			Court Questions		1 hour
	Cultural				
	Ngā Rūnanga	Ailsa Cain (Culture and Policy)	Lead by James Winchester/Sal Lennon		5 minutes
			Cross Examination	SRC (Philip Maw)	15 minutes
				Federated Farmers (Bronwyn Carruthers)	15 minutes
				Forest and Bird / Fish and Game (Sally Gepp)	5 minutes
			Court Questions		45 minutes
	Farm Systems				

³ Unavailable on 11 and 12 April.

Hearing Dates	Party			Counsel cross-examining	Time allowed
	Dairy Interest Parties	Cain Duncan ⁴ (Sustainable Farm Management)	Lead by Katherine Forward		5 minutes
			Cross Examination	SRC (Philip Maw)	1 hour
				Aratiatia Livestock (Douglas Allan) ⁵	15 minutes
				Forest and Bird / Fish and Game (Sally Gepp)	10 minutes
			Court Questions		45 minutes
Day 4 14 April 2022	Beef and Lamb	Rene Corner-Thomas ⁶ (Animal Science)	Lead by Chris Thomsen ⁷		5 minutes
			Cross examination	SRC (Philip Maw)	1 hour
			Court Questions		45 minutes
		Thomas Orchiston (Farm Systems)	Lead by Chris Thomsen ⁸		5 minutes

⁴ Unavailable 30 – 31 May.

⁵ Unavailable on 11 and 12 April.

⁶ Unavailable the afternoon of 14 April.

⁷ Unavailable 7 - 10 June.

⁸ Unavailable 7 - 10 June.

Hearing Dates	Party			Counsel cross-examining	Time allowed
			Cross examination	SRC (Philip Maw)	1 hour
			Court Questions		45 minutes
	Wilkins Farming Limited	Thomas Orchiston (Farm Systems)	Lead by Bronwyn Carruthers		5 minutes
			Cross examination	SRC (Philip Maw)	1 hour
			Court Questions		45 minutes
	Ravensdown	Anna Wilkes (Environment and Policy)	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

Hearing Dates	Party			Counsel cross-examining	Time allowed
Day 5 30 May 2022	Southland Regional Council	Dr Ross Monaghan (Agricultural and Soil Science)	Lead by SRC (Philip Maw)		5 minutes
			Cross examination	Aratiatia Livestock (Douglas Allan) ⁹	15 minutes
				Dairy Interest Parties (Katherine Forward)	10 minutes
				Federated Farmers (Bronwyn Carruthers)	15 – 30 minutes
				Forest and Bird / Fish and Game (Sally Gepp)	5 minutes
				Hamish English (Kristy Rusher)	20 minutes
			Court Questions		45 minutes
	Dairy Interest Parties	Dawn Dalley ¹⁰ (Agricultural Science and Animal Nutrition)	Lead by Katherine Forward		5 minutes

⁹ Unavailable on 11 and 12 April.

¹⁰ Unavailable 8 – 9 June.

Hearing Dates	Party			Counsel cross-examining	Time allowed	
			Cross Examination	SRC (Philip Maw)	1 hour	
				Aratiatia Livestock (Douglas Allan) ¹¹	15 minutes	
			Court Questions		45 minutes	
	Lay Witness					
	Federated Farmers	Bernadette Hunt (Corporate)	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 (Corporate)	Lead by Bronwyn Carruthers			5 minutes
			Cross examination	SRC (Philip Maw)		1 hour

¹¹ Unavailable on 11 and 12 April.

Hearing Dates	Party			Counsel cross-examining	Time allowed	
			Court Questions		45 minutes	
	Hamish English	Hamish English ¹² (Corporate)	Lead by Kristy Rusher		5 minutes	
			Cross examination	SRC (Philip Maw)	30 minutes	
			Court Questions		45 minutes	
	Wilkins Farming Limited	Sean Wilkins (Corporate)	Lead by Bronwyn Carruthers		5 minutes	
			Cross examination	SRC (Philip Maw)	1 hour	
			Court Questions		45 minutes	
	Freshwater Quality and Freshwater Ecology					
	Day 6 31 May 2022	Southland Regional Council	Dr Antonius Snelder (Water Quality)	Lead by SRC (Philip Maw)		5 minutes
					Dairy Interest Parties (Katherine Forward)	10 minutes
				Federated Farmers (Bronwyn Carruthers)	15-30 minutes	

¹² Unavailable the afternoon of 13 April.

Hearing Dates	Party			Counsel cross-examining	Time allowed
				Forest and Bird / Fish and Game (Sally Gepp)	10 minutes
				Hamish English (Kristy Rusher)	20 minutes
				Court Questions	45 minutes
		Dr Gregory Burrell (Freshwater Ecology)	Lead by Philip Maw		5 minutes
		Cross Examination	Director-General of Conservation (Pene Williams)	15 minutes	
			Federated Farmers (Bronwyn Carruthers)	15-30 minutes	
			Forest and Bird / Fish and Game (Sally Gepp)	10 minutes	
			Court Questions	45 minutes	
			Lead by Philip Maw		5 minutes

Hearing Dates	Party			Counsel cross-examining	Time allowed	
		Roger Hodson (Environmental Science)	Cross Examination	Director-General of Conservation (Pene Williams)	5-10 minutes	
				Dairy Interest Parties (Katherine Forward)	10 minutes	
			Court Questions		45 minutes	
	Forest and Bird / Fish and Game	Dr Russell Death (Water Quality – sediment standards)	Lead by Sally Gepp		5 minutes	
			Cross Examination	SRC (Philip Maw)	1 hour	
				Director-General of Conservation (Pene Williams)	5-10 minutes	
				Dairy Interest Parties (Katherine Forward)	10 minutes	
			Court Questions		45 minutes	
	Day 7 1 June 2022	Forest and Bird / Fish and Game		Lead by Sally Gepp		5 minutes
				Cross Examination	SRC (Philip Maw)	1 hour

Hearing Dates	Party			Counsel cross-examining	Time allowed	
		Kathryn McArthur (Freshwater Ecology and Water Quality)		Dairy Interest Parties (Katherine Forward)	10 minutes	
				Director-General of Conservation (Pene Williams)	15 minutes	
				Federated Farmers (Bronwyn Carruthers)	15 minutes	
				Hamish English (Kristy Rusher)	10 minutes	
				Wilkins Farming (Bronwyn Carruthers)	5 minutes	
			Court Questions		45 minutes	
	Ngā Rūnanga	Jane Kitson (Environmental Science and Mātauranga Māori)		Lead by James Winchester/Sal Lennon		5 minutes
				Cross Examination	SRC (Philip Maw)	1 hour
					Dairy Interest Parties (Katherine Forward)	10 minutes

Hearing Dates	Party			Counsel cross-examining	Time allowed	
				Director-General of Conservation (Pene Williams)	15 minutes	
				Federated Farmers (Bronwyn Carruthers)	15 minutes	
				Forest and Bird / Fish and Game (Sally Gepp)	10 minutes	
				Court Questions	45 minutes	
	Dairy Interest Parties	Craig Depree (Water Quality)			Lead by Katherine Forward	5 minutes
	Cross Examination				SRC (Philip Maw)	1 hour
					Forest and Bird / Fish and Game (Sally Gepp)	20 minutes

Hearing Dates	Party			Counsel cross-examining	Time allowed
				Ngā Rūnanga (James Winchester/Sal Lennon)	20 minutes
			Court Questions		45 minutes
Day 8 2 June 2022	Director-General of Conservation	Emily Funnell ¹³ (Freshwater Ecology)	Lead by Pene Williams		5 minutes
			Cross Examination	SRC (Philip Maw)	1 hour
				Dairy Interest Parties (Katherine Forward)	10 minutes
				Federated Farmers (Bronwyn Carruthers)	15 minutes
				Forest and Bird / Fish and Game (Sally Gepp)	10 minutes
	Court Questions		45 minutes		
	Forest and Bird / Fish and Game	Adam Canning (Freshwater Ecology)	Lead by Sally Gepp		5 minutes

Hearing Dates	Party			Counsel cross-examining	Time allowed	
			Cross Examination	SRC (Philip Maw)	1 hour	
				Dairy Interest Parties (Katherine Forward)	10 minutes	
				Federated Farmers (Bronwyn Carruthers)	15 minutes	
			Court Questions	45 minutes		
	Planning					
	Southland Regional Council	Matthew McCallum Clark (Planning)		Lead by Philip Maw		10 minutes
				Cross Examination	Aratiatia Livestock Limited (Douglas Allan) ¹⁴	15 minutes
					Beef and Lamb (Chris Thomsen ¹⁵)	10 minutes
					Dairy Interest Parties (Katherine Forward)	10 minutes

¹⁴ Unavailable on 11 and 12 April.

¹⁵ Unavailable 7 - 10 June.

Hearing Dates	Party			Counsel cross-examining	Time allowed
				Director-General of Conservation (Pene Williams)	15 minutes
				Federated Farmers (Bronwyn Carruthers)	1 hour
				Hamish English (Kristy Rusher)	10 minutes
				Forest and Bird / Fish and Game (Sally Gepp)	20 minutes
				Wilkins (Bronwyn Carruthers)	45 minutes
			Court Questions	45 minutes	
Day 9 3 June 2022	Beef and Lamb	Christine Foster (Planning)	Lead by Chris Thomsen ¹⁶		5 minutes
			Cross Examination	SRC (Philip Maw)	2 hours

Hearing Dates	Party			Counsel cross-examining	Time allowed		
				Director-General of Conservation (Pene Williams)	15 minutes		
				Forest and Bird / Fish and Game (Sally Gepp)	10 minutes		
				Court Questions	45 minutes		
	Aratiatia Livestock	Claire Jordan (Planning)			Lead by Douglas Allan ¹⁷	5 minutes	
					Cross examination	SRC (Philip Maw)	2 hours
						Federated Farmers (Bronwyn Carruthers)	5 minutes
					Court Questions		45 minutes
	Ballance Agri-Nutrients	Sue Ruston (Planning)			Lead by Megan Exton	5 minutes	
					Cross Examination	SRC (Philip Maw)	2 hours

Hearing Dates	Party			Counsel cross-examining	Time allowed
				Forest and Bird / Fish and Game (Sally Gepp)	10 minutes
				Court Questions	45 minutes
Day 10 7 June 2022	Director-General of Conservation	Linda Kirk ¹⁸ (Planning)	Lead by Pene Williams		5 minutes
			Cross Examination	SRC (Philip Maw)	2 hours
				Beef and Lamb (Chris Thomsen) ¹⁹	10 minutes
				Dairy Interest Parties (Katherine Forward)	10 minutes
				Federated Farmers (Bronwyn Carruthers)	15 minutes
				Forest and Bird / Fish and Game (Sally Gepp)	15 minutes
			Court Questions		45 minutes

¹⁸ Unavailable 10 June.

¹⁹ Unavailable 7 - 10 June.

Hearing Dates	Party			Counsel cross-examining	Time allowed
	Federated Farmers	Peter Wilson (Planning)	Lead by Bronwyn Carruthers		5 minutes
			Cross Examination	SRC (Philip Maw)	2 hours
				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
Day 11 8 June 2022	Dairy Interest Parties	Gerard Willis (Planning)	Lead by Katherine Forward		5 minutes
			Cross Examination	SRC (Philip Maw)	2 hours

Hearing Dates	Party			Counsel cross-examining	Time allowed
				Aratiatia Livestock (Douglas Allan) ²⁰	15 minutes
				Director-General of Conservation (Pene Williams)	15 minutes
				Federated Farmers (Bronwyn Carruthers)	5 minutes
				Forest and Bird / Fish and Game (Sally Gepp)	20 minutes
				Ngā Rūnanga (James Winchester/Sal Lennon)	20 minutes
			Court Questions		45 minutes
	Forest and Bird / Fish and Game	Ben Farrell (Planning)	Lead by Sally Gepp		5 minutes
			Cross Examination	SRC (Philip Maw)	2 hours

Hearing Dates	Party			Counsel cross-examining	Time allowed
				Aratiatia Livestock (Douglas Allan) ²¹	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
				Federated Farmers (Bronwyn Carruthers)	15 minutes
				Meridian Energy (Stephen Christensen)	10 minutes
				Ravensdown (Mark Christensen)	10 minutes

²¹ Unavailable on 11 and 12 April.

Hearing Dates	Party			Counsel cross-examining	Time allowed
				Wilkins Farming (Bronwyn Carruthers)	5 minutes
			Court Questions		45 minutes
Day 12 9 June 2022	Meridian Energy	Jane Whyte (Planning)	Lead by Stephen Christensen		5 minutes
			Cross examination	SRC (Philip Maw)	1 hour
			Court Questions		45 minutes
	Ngā Rūnanga	Treena Davidson (Planning)	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
		Federated Farmers (Bronwyn Carruthers)	15 minutes		

Hearing Dates	Party			Counsel cross-examining	Time allowed		
				Forest and Bird / Fish and Game (Sally Gepp)	5 minutes		
				Wilkins Farming (Bronwyn Carruthers)	5 minutes		
				Court Questions	45 minutes		
	Ravensdown	Carmen Taylor (Planning)			Lead by Mark Christensen	5 minutes	
					Cross examination	SRC (Philip Maw)	2 hours
						Forest and Bird / Fish and Game (Sally Gepp)	10 minutes
					Court Questions	45 minutes	
	Day 13 10 June 2022	Territorial Authorities	Janan Dunning (Planning)		Lead by Michael Garbett	5 minutes	
Cross examination					SRC (Philip Maw)	1 hour	
Court Questions					45 minutes		

Hearing Dates	Party			Counsel cross-examining	Time allowed
	Wilkins Farming	Sharon Dines (Planning)	Lead by Bronwyn Carruthers		5 minutes
			Cross examination	SRC (Philip Maw)	2 hours
			Court Questions		45 minutes
	Southland Regional Council	Lauren Maciaszek (Planning)	Lead by SRC (Philip Maw)		5 minutes
			Cross examination	Forest and Bird / Fish and Game (Sally Gepp)	10 minutes
				Federated Farmers (Bronwyn Carruthers)	15-30 minutes
			Court Questions		45 minutes
	Southland Regional Council	Matthew McCallum Clark (Planning)	Court Questions		45 minutes
	All parties	Closing Legal Submissions			