

**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)

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**MEMORANDUM OF COUNSEL FOR SOUTHLAND REGIONAL COUNCIL
REGARDING TRANCHES 2 AND 3**

**AVAILABILITY ON PROPOSED HEARING DATES AND VIEWS ON
WHETHER ANY SIGNIFICANT ISSUES OF LAW ARISE**

25 February 2022

Judicial Officer: Judge Borthwick

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ARATIATIA LIVESTOCK LIMITED
(ENV-2018-CHC-29)

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 By Minute dated 15 February 2022, the Council was directed to confer with the parties and file a memorandum advising:
 - (a) whether the parties are available on the proposed fixture dates, as summarised below:
 - (i) for Tranche 2, the jurisdictional matter is to be a back-up fixture in the week commencing 7 June 2022, with a firm fixture in the week commencing 15 August 2022 if the matter is not reached in the week of 7 June; and
 - (ii) for Tranche 3, the Court can hear the proceeding in the week commencing 15 August 2022.
 - (b) in relation to Tranche 3, whether any significant issues as to law arise, and if they do, identifying the issues and giving a view as to whether the proceeding is one suitable for sitting with two or more judges.

Availability on the proposed fixture dates

- 3 All parties from whom responses were received¹ have confirmed they are available in the weeks during which the issues they have an interest in are proposed to be heard.

Parties' views on significance of issues of law and composition of bench

- 4 The Tranche 3 hearing concerns the most appropriate wording of Policy 26 (which gives effect to Objective 10 and provision for renewable energy generally), the rule that governs the reconsenting of the existing Manapōuri Power Scheme (Rule 52A) and a proposed new Rule 52B, and the provision in Appendix E creating an exception for some activities related to the Manapōuri Power Scheme to be exempted from compliance with the water quality limits in the schedule.

¹ Responses were not received from: Dairy Holdings Limited, Federated Farmers of New Zealand, the Territorial Authorities, Aratiatia Livestock Limited, Owen Buckingham, Robert Kempthorne, and Murray and Tania Willans.

- 5 No party considers significant issues of law arise in relation to Tranche 3.
- 6 Counsel notes for completeness, that while all parties agree that there are no significant issues of law which arise in this case:
- (a) Counsel for Forest & Bird and Fish & Game considers that “all matters of law relating to concepts in the National Policy Statement for Freshwater Management 2020 are significant”; and
 - (b) Counsel for the Director-General of Conservation notes that there “is a level of complexity with the interaction between the Manapōuri Te Anau Development Act and the RMA, however, this is not the first time the Court has had to consider how two or more pieces of legislation may be read together.”
- 7 On this basis, the parties are either neutral as to the composition of the bench, or express a view that two or more judges are not necessary for this case.

DATED this 25th day of February 2022



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