

**BEFORE THE ENVIRONMENT COURT  
I MUA I TE KOOTI TAIAO O AOTEAROA**

**ENV-2018-CHC-046**

**IN THE MATTER** of the Resource Management Act 1991

**AND** of appeals under clause 14 of the First Schedule of  
the Act

**BETWEEN** **SOUTHWOOD EXPORT LIMITED, KODANSHA  
TREE FARM NEW ZEALAND LIMITED AND  
SOUTHLAND PLANTATION FOREST COMPANY  
OF NEW ZEALAND LIMITED** (ENV-2018-CHC-  
046)  
**Appellants**

**AND** **SOUTHLAND REGIONAL COUNCIL**  
**Respondent**

**AND** **CAMPBELL'S BLOCK  
S 274 PARTIES**  
(as continued on next page)

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**MEMORANDUM OF COUNSEL FOR APPELLANT**

**Dated: 22 February 2022**

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KLR-021208-254-953-V1

**AND PETER CHARTRES**

**AND DIRECTOR-GENERAL OF CONSERVATION**

**AND FEDERATED FARMS OF NEW ZEALAND**

**AND ROBERT GRANT**

**AND RAYONIER NEW ZEALAND LIMITED**

**AND ROYAL FOREST AND BIRD PROTECTION  
SOCIETY OF NEW ZEALAND  
INCORPORATED**

**AND STONEY CREEK STATION**

**AND THE TERRACES LIMITED**

## **MAY IT PLEASE THE COURT**

### **Background**

1. This memorandum of counsel is filed on behalf of appellant Southwood Export Ltd (ENV-2018-CHC-46) in response to the directions of the court at paragraph 42 of the Court's minute dated 15 February 2022.
2. Leave of the Court for the late filing of evidence in support of the appeal and filing of evidence that combines the evidence in support of the appeal and the evidence in support of the section 274 notice on the related appeal brought by Rayonier NZ Limited is also sought.

### **Response to the Court's Minute**

3. Two witnesses have provided statements of evidence which have been filed by Southwood Export Limited
4. Counsel confirms that Southwood Export Limited has no amendments to the briefs of evidence filed as:
  - a. Witnesses preparing briefs of evidence have relied on the entirety of the content within the Will say statements annexed to the briefs of evidence. As the relief sought has now been revised as a consequence of the joint witness conference, the full Will say statement is relied on to support the revised terms of relief.
  - b. Ms Strang and Mr Manley have qualified themselves as experts by experience in their briefs of evidence.
5. Southwood Export Limited's appeal sought that the definition of cultivation was changed to remove a reference to herbicide spraying and to exclude stick raking. A further and alternative form of relief was sought to amend the scope of Rule 25.
6. A revised version of the relief sought in this appeal is attached as Appendix 1 to this Memorandum of Counsel. To avoid doubt, this is the form of the definition that was agreed at the relevant Joint Witness Conference.

### **Leave Sought**

7. The Joint Witness Conference resulted in the parties reaching agreement as to the terms on which the Southwood Export Ltd appeal could be resolved, together with an associated appeal brought by Rayonier NZ Limited.
8. In anticipation that the appeal could be resolved by way of consent order, evidence in chief was not filed on the date directed by the Court.
9. The Court subsequently indicated that disputes had been resolved by way of joint witness conferencing, such appeals were to be scheduled for an "all of parties" hearing.

10. Counsel filed the Southwood Export Limited briefs of evidence in chief as Appellant in combination with its section 274 evidence in support of the Rayonier NZ Limited appeal on the due date of the section 274 evidence.
11. The appeals are closely interrelated and the Court had earlier granted leave to Rayonier NZ Limited to take a combined approach to the filing of evidence, given that the matters in dispute had been resolved at the Joint Witness Conference.
12. Given the proximity of the forthcoming case management conference Counsel intended to seek the Court's leave at that time, however technological complications prevented counsel from speaking at that conference.
13. Subsequently, Counsel was absent on bereavement leave.
14. Counsel apologises for the delay in completing its obligation with regard to filing an appropriate memorandum. No party objects to the enlargement of time for the filing of evidence in support of the appeal.
15. Therefore, Counsel now seeks:
  - a) the leave of the Court to file evidence which combines the evidence in chief as appellant and section 274 party;
  - b) an enlargement of the filing date for that evidence in chief filed in support of the appeal.

DATED: 22 February 2022



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K L Rusher

## **Appendix 1 – Revised Relief Sought by Southwood Export Limited:**

(NB: insertions to text are shown as underlined text, and deletions to text are shown as struck through text)

Definition - Cultivation - Preparing land for growing pasture or a crop by mechanical tillage, direct drilling, herbicide spraying, or herbicide spraying followed by over-sowing for pasture or forage crops (colloquially referred to as 'spray and pray'), but excludes:

a. herbicide spraying undertaken solely for the control of pest plant species;

b. herbicide spraying for the establishment or maintenance of plantation forestry; and c. stick raking or slash raking associated with a plantation forest, provided that the resulting windrows follow the contour of the land where the slope of the land is greater than 10 degrees.

Definition (new) - Stick raking or slash raking Means the use of machinery to clear slash from harvested plantation forest to enable the replanting of trees. It does not include breaking up of the soil profile or the disturbance of the stumps of the harvested plantation forest trees.