

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

**UNDER** the Resource Management 1991

**IN THE MATTER** of 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)

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

*(Continued next page)*

---

**MEMORANDUM OF COUNSEL FOR SOUTHLAND REGIONAL COUNCIL  
REGARDING TOPIC A HEARING DATES  
1 March 2019**

---

Judicial Officer: Judge Borthwick and Judge Hassan

---

Respondent's Solicitor  
PO Box 4341 CHRISTCHURCH 8140  
DX WX11179  
Tel +64 3 379 7622  
Fax +64 379 2467

**WYNNWILLIAMS**

Solicitor: P A C Maw  
(philip.maw@wynnwilliams.co.nz)

**GORE DISTRICT COUNCIL, SOUTHLAND DISTRICT  
COUNCIL & INVERCARGILL DISTRICT 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 Act 1991**  
(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, SOUTHLAND  
PLANTATION FOREST COMPANY OF NZ,  
SOUTHWOOD EXPORT LIMITED**  
(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 (**pSWLP**).
- 2 This Memorandum addresses the proposed hearing dates for the Topic A hearing.
- 3 The Court proposes to set down Topic A for a firm fixture date in the weeks commencing Tuesday 4 June 2019 and Monday 10 June 2019.<sup>1</sup>
- 4 The Court directed the Council to liaise with the parties to the appeals and confirm the date for the hearing by Friday 1 March 2019. If the dates proposed presented any difficulty for the parties' witnesses, Counsel were to confer on whether this can be overcome by the calling of individual witnesses out of order.
- 5 This Memorandum also addresses the Counsel's intent to liaise with the parties as to a proposed schedule for the Topic A hearing, and the Court's expectations in regard to the presence of counsel throughout the hearing.

**Availability**

- 6 In accordance with the direction of the Court on 21 February 2019, Counsel for the Council have liaised with the parties to the appeals in relation to the proposed hearing dates. Specifically, Counsel requested that each party advise as to their availability for the weeks commencing Tuesday 4 June 2019 and Monday 10 June 2019, and noted that if no response was received from a party by Wednesday 27 February 2019, Counsel would assume that that party had no issues with availability on the proposed dates.
- 7 Counsel followed up with those parties that had not responded by Wednesday 27 February 2019 to seek a response as to their availability on the proposed hearing dates (again advising that a lack of response was assumed that parties did not have any issues with the proposed hearing dates).

---

<sup>1</sup> Email from Ms Sprott dated 21 February 2019.

- 8 The availability issues advised by parties are set out in **Appendix A**.
- 9 A list of those parties that did not respond to either request for confirmation as to availability is included, for completeness, in **Appendix B**.
- 10 Based on the responses received from the parties, Counsel considers that any availability issues can be dealt with by way of scheduling. For example, it may be necessary to schedule parties in accordance with their availability rather than strictly following the order of the evidence exchange timetable.
- 11 Accordingly, Counsel confirms that the proposed fixture date in the weeks commencing Tuesday 4 June 2019 and Monday 10 June 2019 is suitable based on the responses received (and subject to the proviso in relation to the order of parties at the hearing discussed above).

#### **Proposed hearing schedule**

- 12 In accordance with the availability of the witnesses as set out in **Appendix A**, Counsel is preparing a draft schedule with a proposed order of parties that will accommodate any witness unavailability. Once all evidence in chief has been filed, and Counsel will therefore have an indication of how many witnesses each party will call and how long each party may require, Counsel will circulate the proposed schedule among the parties to seek their comment. Counsel proposes to file copy of the proposed schedule with the Court by 22 March 2019, being one week after all evidence in chief is filed.

#### **Counsel presence throughout hearing**

- 13 In liaising with parties as to their availability, some parties have queried whether the Court is anticipating that all counsel will be required to be present throughout the hearing for Topic A, particularly noting that some parties only have a limited interest in Topic A, including some section 274 parties.
- 14 Counsel respectfully seeks an indication from the Court as to what its expectations are for counsel being present throughout the hearing.

- 15 Counsel notes that should the Court allow counsel to be absent during parts of the hearing, individual counsel may need to seek leave not to appear, and in doing so accept any risk arising due to the fact that they would not be present to cross examine witnesses.

**DATED** this 1<sup>st</sup> day of March 2019



.....  
**P A C Maw / K J Wyss**  
Counsel for the Southland Regional Council

### Appendix A – Hearing Unavailability Dates

Hearing Dates	Dates unavailable
Tuesday 4 June	Meridian Energy Ltd ( <b>Meridian</b> ) – Andrew Feierabend unavailable Alliance Group Ltd ( <b>Alliance</b> ) – Doyle Richardson unavailable DairyNZ Ltd and Fonterra Co-operative Group ( <b>Fonterra</b> ) – Gerard Willis unavailable
Wednesday 5 June	Royal Forest and Bird Protection Society of New Zealand ( <b>Forest &amp; Bird</b> ) – counsel unavailable (High Court hearing) Aratiatia Livestock Ltd ( <b>Aratiatia</b> ) - counsel unavailable (High Court hearing) Meridian – Andrew Feierabend unavailable Alliance – Doyle Richardson unavailable DairyNZ Ltd and Fonterra – Gerard Willis unavailable
Thursday 6 June	Forest & Bird – counsel unavailable (High Court hearing) Aratiatia - counsel unavailable (High Court hearing) Meridian – Andrew Feierabend unavailable Alliance – Doyle Richardson unavailable DairyNZ Ltd and Fonterra – Gerard Willis unavailable
Friday 7 June	Meridian – Andrew Feierabend unavailable Alliance – Doyle Richardson unavailable DairyNZ Ltd and Fonterra – Gerard Willis unavailable
Monday 10 June	DairyNZ Ltd and Fonterra – Gerard Willis unavailable
Tuesday 11 June	DairyNZ Ltd and Fonterra – Gerard Willis unavailable
Wednesday 12 June	Forest & Bird – Kate McArthur unavailable
Thursday 13 June	Forest & Bird – Kate McArthur unavailable
Friday 14 June	Forest & Bird – Kate McArthur unavailable

**Appendix B – No Response Received**

No response as to availability was received from the following parties.

- 1 Ngā Rūnanga (comprising Waihopai Rūnaka, Hokonui Rūnaka, Te Rūnanga o Awarua, Te Rūnanga o Oraka Aparima, and Te Rūnanga o Ngāi Tahu)
- 2 Heritage New Zealand Pouhere Taonga
- 3 Grant & Rachel Cockburn
- 4 Owen Buckingham
- 5 Waiau Rivercare Group
- 6 Hamish English
- 7 Wilkins Farming Co
- 8 Peter Chartres