

**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)

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

(Continued next page)

**MEMORANDUM OF COUNSEL FOR SOUTHLAND REGIONAL COUNCIL
REGARDING PROPOSED HEARING SCHEDULE
2 April 2019**

Judicial Officer: Judge Borthwick and Judge Hassan

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**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 schedule, as indicated in our Memorandum of Counsel dated 1 March 2019.

Proposed hearing schedule

- 3 In accordance with the availability of the witnesses, and as set out in our Memorandum of Counsel dated 1 March 2019, Counsel has prepared a draft schedule with a proposed order of parties that will accommodate any witness unavailability during the hearing. Counsel has circulated this proposed schedule among the parties to seek their comment. No party has raised any issue with the proposed schedule. The proposed schedule is attached in **Appendix A**.
- 4 This schedule proposes that the hearing proceeds on a party by party basis rather than by topic or area of expertise. Counsel considers that if the hearing were to be heard on a topic or expertise basis, individual witnesses may be required to be available on a number of occasions and may be recalled to provide evidence on multiple topics (due to the overlap in topics addressed by some witnesses). Counsel considers this may lead to inefficiencies in the hearing process.
- 5 The proposed schedule follows, as far as possible, the evidence exchange timetable. However due to the large number of parties to these appeals and the availability issues of some parties, Counsel proposes to schedule some parties where they have availability, rather than strictly following the evidence exchange timetable.
- 6 Counsel notes that the proposed schedule will need to be somewhat flexible due to the uncertainty in the length of time required for each witness, which will depend on the extent of cross examination and questions from the Court.
- 7 In addition, the timing in the schedule will depend, in part, on the format of the hearing. Those parties that have not filed evidence for the Topic A hearing have been listed after the proposed hearing schedule in Appendix A. If these parties intend to present legal submissions, they

will need to be added into the schedule at the appropriate time (in light of the Court's directions as to the presentation of legal submissions, as discussed below).

- 8 Counsel seeks direction from the Court as to its preference as to how the hearing will proceed, particularly in relation to the presentation of opening and closing legal submissions.
- 9 Given the number of parties, Counsel considers that there may be efficiencies for each party to give a brief opening before their witness/es present evidence, and for each party to give full written closing legal submissions once all evidence has been heard. This would enable all parties to provide focussed legal submissions in light of all of the evidence and avoid the need for both fulsome opening and closing submissions, particularly by those parties being heard near the commencement of the hearing. This approach would also avoid any natural justice issues that might result from parties being heard in a different order.

DATED this 2nd day of April 2019



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

Appendix A – proposed hearing schedule

Hearing Dates	Party	Witness
Tuesday 4 June	Southland Regional Council	Roger Hodson Nicholas (Nick) Ward Kelvin Lloyd Ewen Rodway Dr Antonius (Ton) Snelder Rebecca Robertson Matthew McCallum-Clark
Wednesday 5 June	Council (continued)	Council (continued)
	Heritage New Zealand Pouhere Taonga	Denise Anderson
	Federated Farmers of New Zealand	Darryl Sycamore
Thursday 6 June	Horticulture New Zealand	Lynette Wharfe
	Ballance Agri-Nutrients Ltd	Sue Ruston
Friday 7 June	Gore District Council, Southland District Council & Invercargill City Council	Ian Evans Malcolm Loan Matthew Bayliss Susan (Sue) Bennett Janan Dunning
	Ravensdown Ltd	Carmen Taylor
Monday 10 June	Royal Forest and Bird Protection Society of New Zealand (Forest & Bird)	Kathryn (Kate) McArthur
	Southland Fish and Game Council (Fish & Game)	Russell Death

	Forest & Bird and Fish & Game	Ben Farrell (joint)
Tuesday 11 June	Director-General of Conservation	Donna Shepard Brian Rance Emily Funnell Linda Kirk
	Ngā Rūnanga (comprising Waihopai Rūnaka, Hokonui Rūnaka, Te Rūnanga o Awarua, Te Rūnanga o Oraka Aparima, and Te Rūnanga o Ngāi Tahu)	Ailsa Cain Michael Skerrett Dr Jane Kitson Treena Davidson
Wednesday 12 June	Meridian Energy Ltd	Guy Waipara Andrew Feierabend Dr Jennifer Purdie Dr Mark James Margaret (Jane) Whyte
	Waiau Rivercare Group	Peter Horrell
Thursday 13 June	Aratiatia Livestock Ltd	Paul Marshall Claire Jordan
	Alliance Group Ltd	Doyle Richardson John Kyle
	DairyNZ Ltd and Fonterra Co-operative Group	Justin Kitto (joint) Gerard Willis (joint)
Friday 14 June		

Parties with no evidence on Topic A (subject to presentation of legal submissions, where applicable):

Wilkins Farming Co

Hamish English

Peter Chartres

Z Energy Ltd, BP Oil New Zealand Ltd & Mobil Oil New Zealand Ltd

Invercargill Airport Ltd

Grant & Rachel Cockburn

Owen Buckingham

Invercargill City Council Water Manager

Dairy Holdings Limited