

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

IN THE MATTER of the Resource Management Act 1991  
AND of appeals pursuant to clause 14 of the First  
Schedule of the Act  
BETWEEN ARATIATIA LIVESTOCK LIMITED  
(ENV-2018-CHC-029)  
... (continued on last page)  
Appellants  
AND SOUTHLAND REGIONAL COUNCIL  
Respondent

Before: Environment Judge J E Borthwick  
Environment Commissioner R M Bartlett  
Environment Commissioner S G Paine

Held: at Invercargill on 10 February 2020 at 10.00 am

Appearances: R W Donnelly for Waiau Rivercare Group Inc and as agent for  
Aratiatia Livestock Ltd  
S Christensen for Alliance Group Limited, Meridian Energy Limited  
and Transpower New Zealand Limited  
P D Williams for Director-General of Conservation  
J J Smyth for Southland Fish and Game Council, and Royal Forest  
and Bird Protection Society of New Zealand Incorporated  
C Lenihan for Federated Farmers of New Zealand, Ballance Agri-  
Nutrients Limited, Ravensdown Limited and Horticulture New  
Zealand  
J G A Winchester for Heritage New Zealand Pouhere Taonga and  
Te Rūnanga o Ngāi Tahu  
P A C Maw and A M Langford for the Southland Regional Council  
M R Garbett for Southland District Council, Invercargill City Council  
and Gore District Council  
K E Forward for Dairy NZ Ltd, Fonterra Co-Operative Group



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**RECORD OF PRE-HEARING CONFERENCE  
pSWLP (TOPIC A)**

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## Introduction

[1] The court released an Interim Decision<sup>1</sup> on the higher order provisions of the proposed Southland Water and Land Plan (pSWLP) on 20 December 2019.

[2] On 7 February 2020 the court directed that:

... if the parties have no interest in the general issue raised by the court as to the interpretation and implementation of the plan and, secondly, agree to abide by the court's decision on those matters then I will grant them leave to be excused.

[3] Accordingly, the following parties did not attend the pre-hearing conference:

BP Oil New Zealand Limited  
 Peter Chartres  
 Grant Cockburn  
 Rachel Cockburn  
 Dairy Holdings Limited  
 D R & J A E Pullar Limited  
 Hamish English  
 Fairlight Station Limited  
 Robert Grant  
 Gunton Farms Limited  
 H W Richardson Group Limited  
 Invercargill Airport Limited  
 Robert Kempthorne  
 Kodansha Treefarm New Zealand Limited  
 Mobil Oil New Zealand Limited  
 Mount Linton Station  
 Rayonier New Zealand Limited  
 Southland Plantation Forest Company of New Zealand Limited  
 Southwood Export Limited  
 Stoney Creek Station Limited  
 The Terraces Limited  
 Wilkins Farming Company Limited  
 Murray Willans  
 Tania Willans  
 Z Energy Limited

[4] Before the court can make its final decision on those provisions, it must reach a settled view on the interpretation and implementation of the plan's provisions. We have

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<sup>1</sup> [2019] NZEnvC 208.



set out our interpretation of the National Policy Statement for Freshwater Management, and in particular Te Mana o te Wai and ki uta ki tai, in the pSWLP. If our interpretation is not available and/or the scheme of the plan does not implement the National Policy Statement-Freshwater Management in the manner we suggest, this has implications for the drafting of the higher order provisions which are in many respects weakly drawn.

[5] In addition, we have asked the parties how the pSWLP takes into account the principles of the Treaty of Waitangi.

### Directions

[6] During the pre-hearing conference the parties agreed on a timetable for evidence exchange and submissions.<sup>2</sup> Accordingly, I direct:

- (a) Southland Regional Council and Ngāi Rūnanga are to file and serve evidence by **Thursday 9 April 2020**. Should it be necessary to support their interpretation of the plan, the parties are to propose amending the wording of the plan;
- (b) all other parties are to file and serve evidence in response by **Friday 1 May 2020**. Again, if any party proposes amendments to the wording of the plan, such wording should be set out;
- (c) Southland Regional Council and Ngāi Rūnanga are to file any evidence in reply by **Friday 15 May 2020**;
- (d) Southland Regional Council, having conferred with the other parties, will file a memorandum identifying any issue as between the parties in respect of which a determination is required and seek further case management directions by **Friday 22 May 2020**. The reporting memorandum should indicate whether the parties wish to examine any witness and/or be heard in person by the court.

[7] Amendments to the text of the plan may be required to support its interpretation and implementation. If this is the case, the parties will have an opportunity to address the court on whether there is scope for any amendment proposed (including the exercise



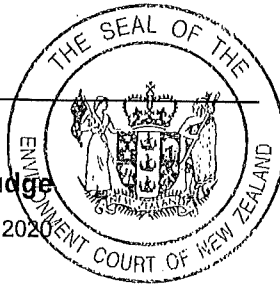
<sup>2</sup> The court records Ms Lenihan's preference for the scope issue to be determined first.

of powers under s 293 of the Act). The matter of scope will be revisited after the joint memorandum referred to at [4](d)] above has been filed.

[8] Leave is reserved for the parties to seek further (or other) directions.

*JEB*  
**J E Borthwick**  
**Environment Judge**

Issued: 14 February 2020



**List of appellants**

ENV-2018-CHC-26	Transpower New Zealand Limited
ENV-2018-CHC-30	Wilkins Farming Co
ENV-2018-CHC-36	Director-General of Conservation
ENV-2018-CHC-37	Southland Fish and Game Council
ENV-2018-CHC-38	Meridian Energy Limited
ENV-2018-CHC-39	Alliance Group Limited
ENV-2018-CHC-40	Federated Farmers of New Zealand
ENV-2018-CHC-41	Heritage New Zealand Pouhere Taonga
ENV-2018-CHC-47	Waihopai Rūnaka, Hokonui Rūnaka, Te Rūnanga o Awarua, Te Rūnanga o Oraka Aparima and Te Rūnanga o Ngāi Tahu
ENV-2018-CHC-50	Royal Forest and Bird Protection Society of New Zealand Incorporated

