

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY**

**I MUA I TE KOOTI TAIAO O AOTEAROA
ŌTAUTAHI ROHE**

UNDER THE Resource Management Act 1991 ("**Act**")
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)

(Continued on next page)

**MEMORANDUM OF COUNSEL FOR FEDERATED FARMERS SOUTHLAND
INCORPORATED IN RESPONSE TO JOINT WITNESS STATEMENTS**

25 MAY 2023

Counsel:
B S Carruthers KC
Shortland Chambers
P +64 21 685 809
PO Box 4338
Auckland 1140

Solicitors:
Federated Farmers of NZ
M T N Campbell
P +64 21 627 936
PO Box 715
Wellington 6140

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, HOKONUJ 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 Federated Farmers Southland Incorporated (**Federated Farmers**).
2. By way of background:
 - (a) In its Sixth Interim Decision the Court directed *inter alia* parties to propose an alternative rule regime to Rule 78 for the maintenance of modified watercourses;
 - (b) On 13 April the Court referred Policy 30 and Rule 78 to expert conferencing. A joint witness statement (**JWS**) was to be filed by 19 May, with the parties directed to file a memorandum setting out their position on any drafting in the JWS by 23 May;
 - (c) On 9 May the Environment Court recalled that part of the Sixth Interim decision relating to Rule 78, including the part directing the parties to propose an alternative rule regime;
 - (d) On 10 May Federated Farmers sought to have the expert conferencing set down for 15 and 18 May vacated on the basis that:
 - (i) The basis for the direction for expert conferencing no longer exists following the recall of the Sixth Interim decision;
 - (ii) The experts need to understand the scope of the changes the Court can direct to meaningfully conference on Policy 30 and Rule 78; and
 - (iii) If expert conferencing was to go ahead prior to resolution of the scope issue and the Court's clarification as to its interim decision on Rule 78, there is a significant risk that the product of that conferencing will not address the ultimate issue to be determined by the Court and result in additional expert conferencing on the matter;
 - (e) The conferencing went ahead as scheduled;
 - (f) On 19 May the Southland Regional Council sought an extension to the dates in (b) above;

(g) On 22 May the Court granted the extension to the timetable directions with parties to file memoranda by 25 May. The Court also directed the parties to indicate whether they have questions for Ms McArthur.

3. Federated Farmers advises:

- (a) It supports the Court's version of Policy 30;
- (b) It supports the proposed permitted activity regime prepared by Ms Ruston that is attached to the JWS as Appendix 1; and
- (c) It has questions for Ms McArthur.

DATED 25 May 2023



B S Carruthers / M T N Campbell

Counsel for Federated Farmers Southland Incorporated