

**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)

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**MEMORANDUM OF COUNSEL FOR SOUTHLAND REGIONAL COUNCIL**  
**9 November 2020**

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Judicial Officer: Judge Borthwick

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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**  
(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, 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.
- 2 This Memorandum addresses the Court's Minute of 22 October 2020 (**Minute**), in relation to Topics B6 and B7.

**Topic B7***Pre-mediation timetable*

- 3 In its Minute, the Court set out directions in relation to the pre-mediation steps for Topic B7.<sup>1</sup> In doing so, it commented that four weeks appears to be insufficient time for those pre-mediation steps to occur, and reserved leave for the parties to seek further or amended directions.<sup>2</sup>
- 4 The Council agrees with the Court that four weeks is unlikely to be sufficient time for the pre-mediation steps directed. Accordingly, the Council proposes to extend the pre-mediation timetable by two weeks. This could be achieved by:
  - (a) adding an additional week to the timetable between the circulation of the Council's statement on the NPSFM, NESF, and Stock Exclusion Regulations (per [19](a) of the Minute) and the parties providing their interests and reasons for relief and/or any change in relief (per [19](b) of the Minute); and
  - (b) adding an additional week to the timetable between the Council circulating technical papers for comment (per [19](c) of the Minute) and the due date for the final copy of the technical papers, the options paper, and the indication of the Council's position (per [19](d) of the Minute).
- 5 On this timetable, the first of the pre-mediation steps is due six weeks prior to mediation beginning, as opposed to the four weeks currently scheduled.
- 6 Counsel for the Council conferred with the parties in relation to this proposed extension. All of the parties that responded indicated their

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<sup>1</sup> Minute of the Environment Court dated 22 October 2020, at [19].

<sup>2</sup> Minute of the Environment Court dated 22 October 2020, at [19]-[20].

support for the Council's proposed extension to the pre-mediation timetable.<sup>3</sup>

- 7 Accordingly, counsel for the Council respectfully seeks that the pre-mediation timetable be extended as provided above.

*Date of mediation*

- 8 In its Minute, the Court indicated that Mr Dunlop is available to facilitate the mediation of Topic B7 between 15 and 17 December 2020. Based on the Court's timetable, as set out at paragraph [19] of the Minute, the first step (being the statement to be circulated by the Council on the NPSFM, NESF and Stock Exclusion Regulations) would be due on Tuesday 17 November 2020. However, based on the proposed extended timetable, the first step would have been due on Tuesday 3 November 2020.
- 9 Counsel for the Council considers that the Council does not have sufficient time to prepare the information required by the first two pre-mediation steps, even if the Court were to decline to grant the extension to the timetable requested, in order to meet the deadlines for a mediation commencing on 15 December 2020.
- 10 Given this, counsel for the Council respectfully seeks that mediation of Topic B7 be set down in the first quarter of 2021, instead of 15-17 December 2020 as currently indicated.
- 11 Counsel notes that it conferred with the parties in relation to this proposed change to the mediation date. While responses were not received from all parties, all responses received were either supportive or neutral. No parties opposed either the extension to the pre-mediation timetable or the change of mediation date.

**Topic B6**

- 12 At paragraph [15] of the Minute, the parties were directed to respond to the Court's ADR suggestions for Topic B6 as set out at paragraph [5] of the Minute.

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<sup>3</sup> Except for two parties who indicated that they had no interest in the matter.

- 13 For completeness, counsel for the Council notes that it is currently conferring with the parties who have an interest in Topic B6 in relation to this matter and will respond to the Court accordingly in due course.

**Directions**

- 14 Counsel for the Council respectfully seeks the following:
- (a) that the pre-mediation steps set out at paragraph [19] of the Court's Minute be amended as indicated below:
    - (i) the step at paragraph [19](a) be due six weeks prior to mediation;
    - (ii) the step at paragraph [19](b) be due four weeks prior to mediation;
    - (iii) the step at paragraph [19](c) be due fifteen working days prior to mediation; and
    - (iv) the step at paragraph [19](d) be due five working days prior to mediation.
  - (b) that the mediation of Topic B7 be set down in the first quarter of 2021.

**DATED** this 9<sup>th</sup> day of November 2020



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**P A C Maw / A M Langford**  
Counsel for the Southland Regional Council