

**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)

(Continued next page)

**MEMORANDUM OF COUNSEL FOR SOUTHLAND REGIONAL COUNCIL
REGARDING THE INFORMATION TO BE PROVIDED TO THE
COMMISSIONER PRIOR TO THE EXPERT CONFERENCE ON SURFACE
WATER QUALITY AND FRESHWATER ECOLOGY
12 April 2019**

Judicial Officer: Judge Borthwick and Judge Hassan

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WYNNWILLIAMS

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

**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 provision of documents for the expert conference on surface water quality and freshwater ecology, as directed to be held on 29 and 30 April 2019.
- 3 Counsel notes that Counsel for Ngā Rūnanga has filed a memorandum seeking that the Court directs expert conferencing on this topic for alternative dates.¹ However, this Memorandum complies with the existing directions of the Court out of an abundance of caution.

Directions in Minute dated 2 April 2019

- 4 In its Minute dated 2 April 2019, the Court directed that the Council, having conferred with the parties, is to file a memorandum identifying the key parts of the pSWLP and evidence-in-chief that are to be read by the Commissioner, by Friday 12 April 2019.²

Directions in Notice dated 3 April 2019

- 5 In its Notice of Expert Witness Conference dated 3 April 2019, the Court directed counsel for the parties to provide to their respective experts a copy of the Environment Court's Expert Witnesses Code of Conduct and Protocol for Expert Witness Conferences. It also directed that experts are to be provided with all documentation relevant to the appeals updated as appropriate, pre-circulated evidence and reports necessary to enable them to thoroughly understand the issues in the proceedings.
- 6 Counsel were directed to ensure that all documentation referred to in paragraph 5 above is provided to the experts and the Court facilitator no later than Friday 12 April 2019.³

¹ Memorandum of Counsel for Ngā Rūnanga dated 10 April 2019.

² Minute of the Environment Court dated 2 April 2019 at [7(vi)].

³ Notice of Expert Witness Conference dated 3 April 2019.

Counsel's approach

- 7 Counsel for the Council have conferred with the parties in relation to both of the above directions in order to compile a comprehensive list of the documentation relevant to the expert witness conference on surface water quality and freshwater ecology so as to satisfy both directions.
- 8 The parties consider that the documentation set out in the table in **Appendix A** is relevant to the surface water quality and freshwater ecology conference and should be read by all relevant experts and Commissioner Hodges prior to the conference.
- 9 A link to each document on the Council's website is set out in this table, along with a page reference for the particular provision (where relevant).
- 10 A USB / hard-drive containing a soft copy of each of these documents is also enclosed.

DATED this 12th day of April 2019



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

Appendix A

Document / provision	Page number / particular reference	Link to Council website
Proposed Water and Land Plan		
Purpose and Framework	page 7 of the Appeals version of the pSWLP	https://www.es.govt.nz/document-library/plans-policies-and-strategies/regional-plans/proposed-southland-water-and-land-plan/background-documents/Documents/Appeals/Proposed%20Southland%20Water%20and%20Land%20Plan%20-%20Part%20A%20-%20Appeals%20Version%20(1%20June%202018).pdf
Issues - Water quality	page 15 of the Appeals version of the pSWLP	
Issues - Surface Water	page 16 of the Appeals version of the pSWLP	
Issues - Indigenous Biodiversity	page 17 of the Appeals version of the pSWLP	
Objectives 1 ⁴ , 6, 7, and 14	pages 23, 23, 24 & 25 respectively of the Appeals version of the pSWLP	
Policies 45 and 47	pages 45 & 46 respectively of the Appeals version of the pSWLP	
Appendix E	page 153 of the Appeals version of the pSWLP	

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Noting this objective is not subject to appeal.

Evidence		
Statement of Evidence of Roger Hodson on behalf of Southland Regional Council dated 14 December 2018		https://www.es.govt.nz/document-library/plans-policies-and-strategies/regional-plans/proposed-southland-water-and-land-plan/background-documents/Documents/Evidence/SRC%20-%20Evidence%20in%20chief%20-%20Roger%20Hodson.pdf
Statement of Evidence of Kelvin Lloyd on behalf of Southland Regional Council dated 14 December 2018		https://www.es.govt.nz/document-library/plans-policies-and-strategies/regional-plans/proposed-southland-water-and-land-plan/background-documents/Documents/Evidence/SRC%20-%20Evidence%20in%20chief%20-%20Kelvin%20Lloyd.pdf
Statement of Evidence of Russell Death on behalf of Southland Fish and Game Council dated 15 February 2019		https://www.es.govt.nz/document-library/plans-policies-and-strategies/regional-plans/proposed-southland-water-and-land-plan/background-documents/Documents/Evidence/ENV-2018-CHC-000037%20-%20Southland%20Fish%20and%20Game%20Council%20-%20Evidence%20in%20chief%20-%20Russell%20Death.pdf
Statement of Evidence of Kathryn McArthur on behalf of Royal Forest and Bird Protection Society of New Zealand dated 15 February 2019		https://www.es.govt.nz/document-library/plans-policies-and-strategies/regional-plans/proposed-southland-water-and-land-plan/background-documents/Documents/Evidence/ENV-2018-CHC-000050%20-%20Royal%20Forest%20and%20Bird%20Protection%20Society%20of%20NZ%20Inc%20-%20Evidence%20in%20chief%20-%20Kathryn%20McArthur.pdf

<p>Statement of Evidence of Jane Kitson on behalf of Ngā Rūnanga⁵ dated 15 February 2019</p>		<p>https://www.es.govt.nz/document-library/plans-policies-and-strategies/regional-plans/proposed-southland-water-and-land-plan/background-documents/Documents/Evidence/ENV-2018-CHC-000047%20-%20Ngā%20Runanga%20-%20Evidence%20in%20chief%20-%20Dr%20Jane%20Kitson.PDF</p>
<p>Statement of Evidence of Mark James on behalf of Meridian Energy Limited dated 15 March 2019</p>		<p>https://www.es.govt.nz/document-library/plans-policies-and-strategies/regional-plans/proposed-southland-water-and-land-plan/background-documents/Documents/Evidence/Mark%20James%20-%20s274%20evidence%20in%20opposition%20for%20Meridian%20Energy%20Limited.pdf</p>
<p>Statement of Evidence of Justin Kitto on behalf of DairyNZ Limited and Fonterra Co-operative Group Limited dated 15 March 2019</p>		<p>https://www.es.govt.nz/document-library/plans-policies-and-strategies/regional-plans/proposed-southland-water-and-land-plan/background-documents/Documents/Evidence/Justin%20Kitto%20-%20s274%20evidence%20in%20opposition%20for%20DairyNZ.PDF</p> <p>https://www.es.govt.nz/document-library/plans-policies-and-strategies/regional-plans/proposed-southland-water-and-land-plan/background-documents/Documents/Evidence/Justin%20Kitto%20-%20s274%20evidence%20in%20opposition%20for%20Fonterra%20Co-operative%20Group.PDF</p>

⁵ Comprising Waihopai Rūnaka, Hokonui Rūnaka, Te Rūnanga o Awarua, Te Rūnanga o Oraka Aparima, and Te Rūnanga o Ngāi Tahu.

<p>Statement of Evidence of Susan Bennett on behalf of the Territorial Authorities⁶ dated 22 March 2019</p>		<p>https://www.es.govt.nz/document-library/plans-policies-and-strategies/regional-plans/proposed-southland-water-and-land-plan/background-documents/Documents/Evidence/Sue%20Bennett%20%20s274%20evidence%20in%20opposition%20for%20Territorial%20Authorities.pdf</p>
<p>Statement of Evidence of Emily Funnell on behalf of the Director-General of Conservation dated 1 March 2019</p>		<p>https://www.es.govt.nz/document-library/plans-policies-and-strategies/regional-plans/proposed-southland-water-and-land-plan/background-documents/Documents/Evidence/Emily%20Funnell%20%20s274%20evidence%20in%20support%20for%20Director-General%20of%20Conservation.pdf</p>
<p>Statement of Evidence of Brian Rance on behalf of the Director-General of Conservation dated 1 March 2019</p>		<p>https://www.es.govt.nz/document-library/plans-policies-and-strategies/regional-plans/proposed-southland-water-and-land-plan/background-documents/Documents/Evidence/Brian%20Rance%20%20s274%20evidence%20in%20support%20for%20Director-General%20of%20Conservation.pdf</p>

⁶

Comprising Gore District Council, Southland District Council, and Invercargill City Council.

Other background documents		
Initial Planning Statement / updated section 32 analysis – Section 4 – Science Supporting the Plan	page 54	https://www.es.govt.nz/document-library/plans-policies-and-strategies/regional-plans/proposed-southland-water-and-land-plan/background-documents/Documents/Appeals/Court%20minutes%20and%20directions/Appendix%20A%20-%20Initial%20Planning%20Statement.pdf
Operative Southland Regional Water Plan – Appendix G – Water Quality Standards	page 381	https://www.es.govt.nz/Document%20Library/Plans,%20Policies%20and%20strategies/Regional%20plans/Regional%20Water%20Plan/regional_water_plan.pdf