

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

**AT CHRISTCHURCH  
KI ŌTAUTAHI**

**IN THE MATTER** of the Resource Management Act 1991

**AND** of appeals under clause 14 of the First Schedule of the Act

**BETWEEN** **TRANSPower NEW ZEALAND LTD**  
**(ENV-2016-CHC-26)**  
Appellant

**FONterra CO-OPERATIVE GROUP LTD**  
**(ENV-2018-CHC-27)**  
[Continued on next page]

**AND** **SOUTHLAND REGIONAL COUNCIL**  
Respondent

---

**Memorandum for the Director-General of Conservation Tumuaki Ahurei  
Re Topic B Tranche 1 continued hearing week of 29 May 2023  
on Appendix N FEMP provisions Sense Check, Policy 30, and Rule 78  
Dated 25 May 2023**

---

---

**Department of Conservation**  
Planning, Permissions and Land  
RMA Shared Services  
Private Bag 4715  
Christchurch 8140  
Phone Waea: 027 408 3324  
Solicitor Rōia: Pene Williams

**BETWEEN**

**ARATIATIA LIVESTOCK LTD**

(ENV-2018-CHC-29)

**WILKINS FARMING CO**

(ENV-2018-CHC-30)

**GORE AND SOUTHLAND DISTRICT COUNCILS,**

**INVERCARGILL CITY COUNCIL**

(ENV-2018-CHC-31)

**DAIRYNZ LTD**

(ENV-2018-CHC-32)

**H W RICHARDSON GROUP LTD**

(ENV-2018-CHC-33)

**BEEF + LAMB NEW ZEALAND**

(ENV-2018-CHC-34 AND 35)

**DIRECTOR-GENERAL OF CONSERVATION**

(ENV-2018-CHC-36)

**SOUTHLAND FISH & GAME COUNCIL**

(ENV-2018-CHC-37)

**MERIDIAN ENERGY LTD**

(ENV-2018-CHC-38)

**FEDERATED FARMERS OF NEW ZEALAND**

(ENV-2018-CHC-40)

**SOUTHWOOD EXPORT LTD, SOUTHLAND PLANTATION FOREST**

**COMPANY OF NZ**

(ENV-2018-CHC-46)

**TE RUNANGA O NGAI TAHU, HOKONUI RUNAKA, WAIHOPAI**

**RUNAKA, TE RUNANGA O AWARUA AND TE RUNANGA O**

**ORAKA APARIMA**

(ENV-2018-CHC-47)

**RAYONIER NEW ZEALAND LTD**

(ENV-2018-CHC-49)

**ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NZ INC**

(ENV-2018-CHC-50)

Appellants

**May it please the Court,**

The following matters are respectfully submitted for the Director-General of Conservation Tumuaki Ahurei (the Director-General) in relation to the hearing commencing 29 May 2023:

1. This memorandum responds to the Court's directions following the 6<sup>th</sup> Interim Decision<sup>1</sup> in respect of Policy 30 and Rule 78, as most recently amended on 22 May 2023. This also addresses the Director-General's interests in the Appendix N FEMP provisions Sense Check.

*Appendix N FEMP provisions Sense Check*

2. The Director-General has considered the Joint Witness Statement for the Appendix N FEMP provisions Sense Check dated 19 April 2023, and the subsequent correspondence and expert evidence including that from Ms Davidson dated 19 May 2023, and most recently from Mr McCallum-Clark and Dr Monaghan dated 23 May 2023.
3. Having considered these documents, and, acknowledging her lack of expertise in farm management systems, the Director-General advises she has no questions in respect of Appendix N for the 'Sense Check' expert witness panel, Ms Davidson, nor the Council's expert witnesses. The Director-General will abide the Court's decisions on Appendix N.
4. For these reasons, the Director-General will seek leave to be excused from attendance at the part of the hearing next week dealing specifically with Appendix N and the FEMP provisions Sense Check.

*Policy 30*

5. The Director-General supports the wording for Policy 30 as approved by the Court's 6<sup>th</sup> Interim Decision<sup>2</sup> at [243].
6. Further, the Director-General supports the proposed change to the Policy heading to better align with the proposed change to the heading of Rule 78 and reflect the change in approach and perception to 'watercourses' rather than 'drains'. It is submitted the Policy heading could be amended to:

*Maintenance of Artificial Watercourses and Modified Watercourses for Drainage*

---

<sup>1</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2023] NZEnvC 051

<sup>2</sup> *Supra* at [230] – [245].

*Rule 78 and Ms McArthur*

7. Having considered the Joint Witness Statement – Ecology and Cultural Values dated 15 May 2023 I advise the Director-General has no questions for Ms McArthur.
8. In relation to Rule 78, and acknowledging the Director-General has no scope in her appeal to amend the activity status of Rule 78(1), the Director-General continues to support the Council's version of the Rule set out at paragraph [255] of the 6<sup>th</sup> Interim Decision.
9. This version of the rule includes the relief sought by the Director-General to at least protect known mapped habitat of non-diadromous galaxias species, along with the inclusion of a new map series 8 in the planning maps.
10. The Director-General does not support the permitted activity version of the rule (which would rely on amendments to the Appendix N FEMP provisions) as proposed by Ms Ruston for Federated Farmers and attached as Appendix 1 to the Combined Joint Witness Statement – Planning dated 24 May 2023.



P D Williams  
Counsel Rōia for the Director-General