

**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 THE SOUTHLAND REGIONAL
COUNCIL REGARDING JOINT WITNESS STATEMENTS**

25 May 2023

Judicial Officer: Judge Borthwick

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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, 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

Introduction

1 This Memorandum of Counsel is filed on behalf of the Southland Regional Council (**Council**) and responds to the Court's direction for parties to set out their positions on any drafting in the JWS.

Rule 78

2 The Council supports the strengthening of Rule 78 through the inclusion of additional clauses, as set out at paragraph [255] of the Court's Sixth Interim Decision. For ease of reference, the version supported by the Council is attached as **Appendix A**.

3 If the Court considers there is scope to further strengthen Rule 78, the Council would support the requirement to implement best-practice requirements through Farm Environmental Management Plans or a management plan approach for watercourses managed by a public entity, as set out in the JWS at paragraph [5].

Ms McArthur

4 Counsel do not have specific questions for Ms McArthur and is content to put any questions to the other ecologists in attendance.

DATED this 25th day of May 2023



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P A C Maw / I F Edwards
Counsel for the Southland Regional Council

Appendix A

Rule 78 – Weed and sediment removal from modified watercourses for drainage maintenance

- (a) The removal of aquatic weeds and plants and sediment from any modified watercourse for the purpose of maintaining or restoring drainage outfall, and any associated bed disturbance and discharge resulting from carrying out the activity, is a permitted activity provided the following conditions are met:
- (ai) general conditions (e), (f), (g), (h) and (l) set out in Rule 55A;
 - (i) the activity is undertaken solely to maintain or restore the drainage capacity of a modified watercourse that has previously been modified or maintained for drainage maintenance or restoration purposes at that location;
 - (ii) the activity is restricted to the removal of aquatic weeds and plants or sediment deposits, provided that at least 95% of the sediment removed shall have a grain size of less than 2mm;
 - (iia) the removal of river bed material other than aquatic weeds, plants, mud or silt is avoided as far as practicable;
 - (iii) any incidental bed disturbance is only to the extent necessary to undertake the activity and must not result in lowering of the bed below previously modified levels;
 - (iv) upon completion of the activity, fish passage is not impeded as a result of the activity;
 - (v) the operator takes all reasonable steps to return any fish captured or stranded by the activity to water immediately preferably to a location upstream of the activity;
 - (vi) between the beginning of June and the end of October, there is no disturbance of the spawning habitat of trout; and
 - (xiii) where the modified watercourse is spring-fed, removal of aquatic weeds and plants is only to the extent that is necessary to undertake the activity and is kept to the absolute minimum; and

(xiv) the modified watercourse is not shown in Map Series 8 as a habitat of threatened non-diadromous galaxias.

(b) The removal of aquatic weeds and plants and sediment from any modified watercourse for the purpose of maintaining or restoring drainage outfall and any associated bed disturbance and discharge resulting from the carrying out of the activity that cannot meet one or more of the conditions of Rule 78(a) is a discretionary activity.