

**IN 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)

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**MEMORANDUM OF COUNSEL FOR DAIRYNZ LIMITED AND  
FONterra CO-OPERATIVE GROUP LIMITED  
SEEKING LEAVE FOR SENIOR COUNSEL TO BE EXCUSED FROM  
ATTENDANCE IN PART**

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**Dated** 8 May 2019  
**Next event date** 4 June 2019  
**Judicial Officer** Judge Borthwick

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**Solicitor acting:**  
Katherine Forward  
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**Counsel instructed:**  
Bal Matheson  
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**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**

(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)

**STONY CREEK STATION LIMITED**

(ENV-2018-CHC-42)

**THE TERRACES LIMITED**

(ENV-2018-CHC-43)

**CAMBELL'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 NGĀI 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 is filed on behalf of DairyNZ Limited (**DairyNZ**) and Fonterra Co-operative Group Limited (**Fonterra**) who both lodged appeals against parts of the Southland Regional Council's decision on the proposed Southland Water and Land Plan (**PsWLP**) as follows:
  - 1.1 DairyNZ Limited v Southland Regional Council (ENV-2018-CHC-000032); and
  - 1.2 Fonterra Co-operative Group Limited v Southland Regional Council (ENV-2018-CHC-000027)
  
- 2 This memorandum relates to the Topic A hearing scheduled to commence on 4 June 2019, of which DairyNZ and Fonterra are interested parties under section 274 of the Resource Management Act 1991 (**RMA**) in respect of the following appeals:
  - 2.1 Southland Fish and Game Council v Southland Regional Council (ENV-2018-CHC000037) – DairyNZ and Fonterra;
  - 2.2 Te Runanga O Ngāi Tahu & others v Southland Regional Council (ENV-2018-CHC-000047) – DairyNZ and Fonterra;
  - 2.3 Royal Forest and Bird Protection Society of New Zealand Incorporated v Southland Regional Council (ENV-2018-CHC-000050) – DairyNZ and Fonterra;
  - 2.4 Alliance Group Limited v Southland Regional Council (ENV-2018-CHC-000039) – Fonterra only;
  - 2.5 Federated Farmers of New Zealand v Southland Regional Council (ENV-2018-CHC-000040) – Fonterra only; and
  - 2.6 Heritage New Zealand Pouhere Taonga v Southland Regional Council (ENV-2018-CHC-000041) – Fonterra only.

### Request for leave

- 3 In its Minute dated 5 March 2019, the Court directed that leave may be sought for counsel to be excused during the hearing conditional upon counsel providing an appropriate assurance that their client has no interest in the relevant part of the hearing<sup>1</sup>.

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<sup>1</sup> Minute of the Environment Court dated 5 March 2019 at paragraph [5]

- 4 The Minute further directed that leave to be excused must be obtained prior to commencement of the hearing<sup>2</sup> and that any application for leave to be excused is to be filed no later than 31 May 2019<sup>3</sup>.
- 5 The purpose of this memorandum is to:
- 5.1 Advise that:
- 5.1.1 DairyNZ and Fonterra will be jointly represented during the hearing by senior counsel, Bal Matheson; and
- 5.1.2 DairyNZ's National Policy Manager, Kay Brown, will be in attendance on behalf of both parties for the entire hearing; and
- 5.2 To seek leave for Mr Matheson, to be excused from attendance for part of the hearing.
- 6 Mr Matheson will be in Court to deliver a brief opening for DairyNZ and Fonterra on day one (Tuesday 4 June 2019)<sup>4</sup> and leave is sought for Mr Matheson to be excused for the remainder of the first week - Wednesday 5 June to Friday 7 June 2019.
- 7 Mr Matheson will attend Court during week two to undertake cross-examination and to present evidence called in support of DairyNZ and Fonterra as scheduled on Thursday 13 June 2019. There may be periods during the second week where Mr Matheson will not be present in Court and leave is sought for Mr Matheson to be excused on these occasions.
- 8 Despite Mr Matheson's intermittent attendance, DairyNZ and Fonterra will at all times be represented by Ms Brown who is admitted as a solicitor of the Senior Courts of England and Wales (but not of New Zealand). Ms Brown will not attend the hearing as counsel but is adept, in Mr Matheson's absence, to assist the Court and to convey DairyNZ and Fonterra's interest in the hearing, should the need arise.

Dated 8 May 2019



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Katherine Forward  
Solicitor for DairyNZ Limited

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<sup>2</sup> Ibid at paragraph [6]

<sup>3</sup> Ibid at paragraph [7]

<sup>4</sup> As directed by the Court in its Minute dated 5 April 2019 at [5].



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Jason Sandford

Solicitor for Fonterra Co-operative Group Limited