

**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)

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**MEMORANDUM OF COUNSEL REGARDING EXPERT CONFERENCING -
TRANCHE 3**

9 September 2022

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

1 This Memorandum responds to the Court's directions as set out in its Minute dated 9 May 2022. The Court directed the parties to file a Joint Memorandum reporting on the topics to be referred to expert conferencing, along with a draft agenda. However, counsel for the Council has conferred with parties regarding the topics for conferencing and prepared this Memorandum accordingly.

Technical expert evidence

2 Technical expert evidence has been filed by Meridian Energy Limited and Ngā Rūnanga. There does not appear to be any technical dispute between the experts and no parties have advanced questions of a technical nature, suggesting that technical conferencing may not be necessary.

Planning evidence

3 Planning evidence has been filed by:

- (a) Aratiatia Livestock Limited;
- (b) Meridian Energy Limited;
- (c) Ngā Rūnanga;
- (d) Royal Forest and Bird Protection Society of NZ Incorporated (**Forest & Bird**);
- (e) Director-General of Conservation; and
- (f) Southland Fish and Game Council (**Fish & Game**).

4 Prior to the filing of evidence, the parties have been working together on drafting solutions to the issues the subject of appeals in Tranche 3. As a result, there is a degree of alignment between the planners for Aratiatia and Forest & Bird. Similarly, there is a degree of alignment between the planners for Meridian and Ngā Rūnanga.

5 With respect to participation in expert planning conferencing, Meridian remains opposed to Ms Jordan participating in that conferencing as a result of her personal involvement with Aratiatia. Aratiatia remains of the view that it is preferable for Ms Jordan to attend the planning caucusing but records Meridian's continued opposition to that occurring.

- 6 Council considers that there is utility in Ms Jordan participating in conferencing. Mr English also considers that Ms Jordan's participation in expert conferencing is appropriate, as conferencing should include those persons that can make a contribution that is substantially helpful and which can assist the Court. Further, counsel for Fish & Game considers the Court is likely to be more assisted by having Ms Jordan participate in conferencing than if it is presented with a JWS signed by all planners, except Ms Jordan. This does not prevent the Court considering what weight to give to Ms Jordan's evidence. Forest & Bird supports Ms Jordan participating in conferencing, as does the Director-General of Conservation, noting that it will be a matter for the Court to determine what weight it places on Ms Jordan's evidence.
- 7 Given this, and in the light of the progress made to date between parties as to drafting, further alignment may be unlikely.
- 8 That said, a draft agenda has been prepared with input from a number of parties.¹ Counsel for Fish & Game was not able to take instructions or discuss the questions with Mr Farrell, but considered that the topics proposed were generally appropriate, although queried the appropriateness of the planners speculating on what may come out of Plan Change Tuatahi. Counsel for Aratiatia Livestock Limited similarly queried the appropriateness of those questions, as did counsel for Forest & Bird. Counsel for Aratiatia Livestock Limited considered that questions 13-22 be deleted from the agenda, as they involve or comprise legal issues that the Court will not want to hear planners' opinions on. Counsel for Forest & Bird noted that the questions regarding over-allocation would be acceptable if Ms Jordan attended conferencing, as her evidence addresses this in some detail.
- 9 Further consideration by the planners of some of the questions posed in the draft agenda may be required at conferencing.

DATED this 9th day of September 2022

¹ Meridian Energy Limited, Director-General of Conservation, Aratiatia Livestock Limited, Mr English, Forest & Bird and Fish & Game.



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