

**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 SENSE CHECK OF APPENDIX N**

13 July 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 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.
- 2 In its Minute dated 11 July 2022, the Court issued draft timetabling directions that were discussed in Court on Friday 8 July 2022. The Court directed counsel to confer and consider whether the capability for implementing a final draft of Appendix N should be 'sense checked'.¹
- 3 The Court indicated that the sense check could be undertaken by land systems experts together with farming witnesses who collectively have expertise to cover the field of the different stock types.
- 4 The Court also directed the parties to suggest a format for this process (e.g. facilitated conference), to identify participants and to advise on any guidance to be given to the participants by the Court or by counsel.

Proposed process for sense check

- 5 The Council considers there is benefit in a sense check occurring after the Council has circulated its final relief (i.e., on or after 4 August 2022). This will enable the participants to consider the final version(s) of Appendix N sought by the parties. The sense check could take the form of informal conferencing, resulting in the production of a JWS.
- 6 The Council also agrees that land systems experts and those farming witnesses that have given evidence, along with a Council representative who will ultimately work with Appendix N regularly, would be well placed to participate in the 'sense check' informal conferencing. However, the Council considers that the number of participants should be intentionally small.
- 7 The Council does not consider that the informal conferencing would need to be facilitated. That said, counsel for the parties would provide the participants with written guidance in advance of the informal conference, and with input from the Court if that is required.
- 8 At the time of writing, it has not been possible to identify the participants for the informal conferencing session and in the absence of having

¹ Minute of the Environment Court dated 11 July 2022 at [14].

identified participants, a date for the informal conferencing has also not yet been identified. Accordingly, leave is respectfully sought for the parties to report to the Court with a list of participants, a proposed date for the informal conferencing, a proposed date for the filing of a JWS, and guidance for the participants by **Wednesday 20 July 2022**.

- 9 Counsel has conferred with the other parties regarding the proposed sense check. Of the responses received, most were comfortable with the proposed approach.² Ballance considered a facilitator would be useful. Forest & Bird and Fish & Game would prefer that the Court first make an interim decision on what content is needed in Appendix N to implement the pSWLP, before a sense check is undertaken of the way in which those matters are set out.
- 10 It is noted that parties only had a short period of time to provide counsel with their responses, and that there was some movement in the suggested course of action between parties being asked for their responses and the filing of this memorandum. Accordingly, if any party who previously indicated support for the Council's proposed approach now supports a different approach than that set out above, that party should advise the Court as a matter of urgency.

Additional work programme of Council

- 11 In addition to the Court directed sense check of Appendix N, the Council is working closely with the Ministry for the Environment and iwi partners on implementation of Appendix N as part of a pilot scheme. This pilot scheme is to inform the final stages of the development of the national Freshwater Farm Plan process, and to test Appendix N. A key goal of the pilot scheme is to advance the design an effective framework which includes and demonstrates traditional mātauranga māori knowledge

² Federated Farmers, Wilkins, Ballance, Ravensdown, Ngā Rūnanga, Aratiatia, Beef + Lamb NZ, Dairy Interests, and Hamish English.

throughout the system. This pilot scheme and the associated testing will be completed by the end of this calendar year.

DATED this 13th day of July 2022



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P A C Maw / A M Langford

Counsel for the Southland Regional Council