

**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 REGARDING
PROPOSED DIRECTIONS FOR REMAINDER OF TRANCHE 1 HEARING**

5 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 Tranche 1 of the appeals against the Council's decision on the proposed Southland Water and Land Plan.
- 2 This Memorandum sets out proposed directions for the remainder of the Topic B Tranche 1 hearing, and an explanation for those directions. Counsel has consulted with the parties in relation to these directions. All parties from whom a response was received agreed with the below proposed directions.¹
- 3 This Memorandum also encloses an updated hearing schedule for the remainder of Tranche 1.

Proposed directions

- 4 The Council and Parties² propose the following directions:
 - (a) The remaining planning witnesses are to be heard on 6 to 8 July 2022.
 - (b) Dr Monaghan (farm systems), and Mr McCallum-Clark and Mr Wilson (planners) are to be recalled on 8 July 2022 to answer any questions on the JWS dated 30 June 2022.
 - (c) Counsel for the Council is to confer with the parties and file supplementary legal submissions setting out the law relating to scope to pursue relief on appeal by 12 July. If counsel do not agree with counsel for the Council on the applicable legal principles, counsel for the Council will note the points of disagreement in their legal submissions. The counsel disagreeing is to address the disputed law in their closing submissions.
 - (d) Appellants and section 274 parties are to circulate their final wording for provisions on 13 July.
 - (e) All parties are to highlight any issues as to scope, by 15 July.

¹ Responses were not received for Federated Farmers, Wilkins Farming, and Aratiatia Livestock.

² Noting that the parties in footnote 1 did not respond.

- (f) The Council is to circulate its final position on the disputed provisions, by way of evidence in reply of Mr McCallum-Clark, to the parties and the Court by 20 July.
- (g) Mr McCallum-Clark is to prepare a section 32AA evaluation of the Council's final position. This evaluation is to be circulated by 20 July and Mr McCallum-Clark will be made available to the parties and the Court for questioning on 25 July.
- (h) Closing submissions will be given by all parties on 28-29 July and 3-4 August (as required), in reverse order to the opening submissions unless a different order is specifically sought/required.³ Parties are to address scope for the relief they seek in their closing submissions.

Discussion

- 5 By way of explanation of the above proposed directions:
- (a) Paragraph 3(a) and (b) have already been directed by the Court and are simply included for completeness.
 - (b) In relation to paragraph 3(c), Counsel has circulated draft submissions to the parties. It is considered that a 12 July filing date is appropriate as it will allow counsel with other commitments sufficient time to review these and provide comment.
 - (c) Counsel considers that the direction in paragraph 3(d) is necessary. Mr McCallum-Clark needs to know what parties are seeking before he can settle on a final position for the Council, not least because what the parties seek determines the scope available.
 - (d) As directed, paragraph 3(e) requires all parties to highlight issues as to scope. This is scheduled after parties circulate their final positions as it has become clear through questioning of the witnesses that there are likely to be some changes to parties' relief.

³ Noting that counsel for Wilkins Farming, Federated Farmers, and Hamish English are only available on 3 or 4 August, counsel for Forest & Bird and Fish & Game is only available 28 and 29 July, and counsel for Ballance AgriNutrients is only available 28 and 29 July and 4 August.

- (e) As directed by the Court on 1 July, paragraphs 3(f) and (g) require Council to circulate its final position and section 32AA report by 20 July. This is scheduled after the parties file their final relief and after scope issues are identified for the reasons set out above.
 - (f) Also as directed by the Court on 1 July, paragraph 3(h) provides that closing submissions will be presented by all parties on 28-29 July and 3-4 August. All parties are available over at least one of these days. The order of closings will be adjusted to accommodate unavailability as required.
- 6 An updated hearing schedule reflecting the above proposed directions is attached as **Appendix A**.

DATED this 5th day of July 2022



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P A C Maw / A M Langford
Counsel for the Southland Regional Council