

**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 FOR SOUTHLAND REGIONAL REGARDING
ERRORS IN CONSOLIDATED RELIEF VERSION OF PLAN**

7 June 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 (**pSWLP** or **Plan**).
- 2 The Court directed all parties to review the 25 May version of the Consolidated Plan showing the relief the parties are pursuing and advise the Court of any errors together with the parties' proposed relief.
- 3 The Council has identified a number of minor errors in the Consolidated Plan in relation to the relief supported by the Council. These are set out below.

Policy 15B

- 4 The chapeau of Policy 15B has been incorrectly transcribed in the relief sought by Southland Regional Council and the Territorial Authorities. This should be corrected as follows:¹

Where existing water quality does not meets the Appendix E Water Quality Standards ...

Policy 18

- 5 The words "and habitats" have been inadvertently missed in the chapeau to Policy 18. These words are included in the decisions version and were agreed in the 10 December 2021 Joint Witness Statement (**JWS**).
- 6 The chapeau to Policy 18 should be corrected to read:²

~~Reduce~~ Avoid where practicable, or otherwise remedy or mitigate, any adverse effects from the discharge of sedimentation and or microbial contamination of contaminants to water bodies and improve river ~~(excluding ephemeral rivers)~~ and riparian ecosystems and habitats by:

¹ Noting that the underlining and strikethrough shown here is for illustrative purposes only and would not be shown in the updated Consolidated Plan.

² Noting that the black underlining shown here is for illustrative purposes only and would not be shown in the updated Consolidated Plan.

Rule 25

- 7 The method for measuring slope in Rule 25(a)(ii) and (iii) has been omitted in the relief version of the Rule, despite being agreed in the JWS. The JWS records the following after Rule 25(d):

Slope in Rule 25(a)(~~ii~~ and (~~iii~~) (~~iv~~) is the average slope over any 20 metre distance.

- 8 The Council supports the inclusion of these words, so their omission is an error.

Rule 70

- 9 For Rule 70(a) the Council is shown as supporting the same version as Fish and Game and Forest and Bird. This is an error.
- 10 The Council's relief should be shown in a separate box as supporting the deletion of "from 1 July 2020", the replacement of "ephemeral river" with "ephemeral flow paths", and the deletion of "natural wetland", as set out below:

~~From 1 July 2020,~~ The disturbance of roosting and nesting areas of the black fronted tern, black billed gull, banded dotterel or black fronted dotterel located in the bed of a lake, river (including ephemeral flow paths) (~~including an ephemeral river~~), or modified watercourse, ~~or natural wetland~~ by stock including cattle, deer, pigs or sheep is a prohibited activity.

Appendix N, Part B(2)(i)

- 11 Appendix N Part B(2)(i) currently includes "[slope is the average slope over any 20 metre distance]". These words should be included as a footnote (with the footnote placed immediately after "slope") rather than in square brackets within the clause.

Rules 20A and 20B

- 12 While not strictly an "error", counsel draws attention to an inconsistency in the proposed relief by various parties in relation to proposed new Rules 20A and 20B. All existing rules in the pSWLP begin with (or include toward the beginning of their chapeau) the type of activity they regulate, for example, "the discharge of X" or "the use of land for Y".

- 13 In some versions of the proposed Rules 20A and 20B, the type of activity has not been included. The Council considers any final version of these new rules, should the Court determine they are appropriate to introduce, should include “the use of land for” in the chapeau.

Cross-referencing

- 14 While also not an “error”, counsel notes that some cross-references to rules within other rules will need to be updated if the Court determines it appropriate to include the proposed new rules in the pSWLP. For example, the chapeau to Rule 24 would need to be amended to include Rules 20A and 20B, and Rule 35B.

DATED this 7th day of June 2022



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