

**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
PROVIDING FURTHER INFORMATION ON RESOURCE LEGISLATION
AMENDMENT ACT 2017
15 March 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 in respect of the appeals against the Council's decision on the proposed Southland Water and Land Plan.
- 2 Counsel's opening legal submissions¹ drew the Court's attention to the version of the RMA which is relevant to these proceedings, being the version of the RMA that pre-dated the Resource Legislation Amendment Act 2017 (**RLAA**).
- 3 The Court asked for clarity as to what relevant changes were made in the RLAA.
- 4 Counsel has prepared a table setting out what he considers to be the relevant sections that were amended by the RLAA, and what that amendment was. This is enclosed as **Appendix A**.

DATED this 15th day of March 2022



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

¹ Dated 14 March 2020 at paragraph [10].

**Relevant amendments made by Resource Legislation Amendment Act
2017 to the Resource Management Act 1991**

RMA section	Amendment
s 6	Insertion of s 6(h) “the management of significant risks from natural hazards”
s 14(3)(b)(ii)	Replace “an individual’s” with “a person’s”.
s 30	<p>Insert:</p> <p>“(ba) the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in relation to housing and business land to meet the expected demands of the region;”</p> <p>Repeal section 30(1)(c)(v)</p> <p>In section 30(1)(d)(v), delete “and the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances”.</p> <p>Insert:</p> <p style="padding-left: 40px;">“business land means land that is zoned for business use in an urban environment, including, for example, land in the following zones:</p> <p style="padding-left: 80px;">(a) business and business parks:</p> <p style="padding-left: 80px;">(b) centres, to the extent that this zone allows business uses:</p> <p style="padding-left: 80px;">(c) commercial:</p> <p style="padding-left: 80px;">(d) industrial:</p> <p style="padding-left: 80px;">(e) mixed use, to the extent that this zone allows business uses:</p> <p style="padding-left: 80px;">(f) retail”</p>

	<p>Insert:</p> <p>“development capacity, in relation to housing and business land in urban areas, means the capacity of land for urban development, based on—</p> <p>(a) the zoning, objectives, policies, rules, and overlays that apply to the land under the relevant proposed and operative regional policy statements, regional plans, and district plans; and</p> <p>(b) the capacity required to meet—</p> <p style="padding-left: 40px;">(i) the expected short and medium term requirements; and</p> <p style="padding-left: 40px;">(ii) the long term requirements; and</p> <p>(c) the provision of adequate development infrastructure to support the development of the land”</p> <p>Insert:</p> <p>“development infrastructure means the network infrastructure for—</p> <p>(a) water supply, wastewater, and storm water; and</p> <p>(b) to the extent that it is controlled by local authorities, land transport as defined in section 5(1) of the Land Transport Management Act 2003.”</p>
s 32(3)	After “statement,” , insert “national planning standard”
s 32(4)	After “greater”, insert “or lesser”
s 32(4A)	<p>Insert:</p> <p>“(4A) If the proposal is a proposed policy statement, plan, or change prepared in accordance with any of the processes provided for in Schedule 1, the evaluation report must—</p>

	<p>(a) summarise all advice concerning the proposal received from iwi authorities under the relevant provisions of Schedule 1; and</p> <p>(b) summarise the response to the advice, including any provisions of the proposal that are intended to give effect to the advice.”</p>
s 32AA(1)(d)(i)	<p>(a) after “New Zealand coastal policy statement”, insert “or a national planning standard”; and</p> <p>(b) delete “publicly”.</p>
s 32AA(3)	After “statement,”, insert “national planning standard,”.
s 43B(3)	<p>Replace with:</p> <p>“A rule or resource consent that is more lenient than a national environmental standard prevails over the standard if the standard expressly says that a rule or consent may be more lenient than it.”</p>
s 66(1)(ea)	<p>Insert:</p> <p>“(ea) a national policy statement, a New Zealand coastal policy statement, and a national planning standard.”</p>
s 66(2)(c)(v) (amendment made by the Urban Development Act 2020)	<p>Above “to the extent that their content”, insert:</p> <p>“(v) relevant project area and project objectives (as those terms are defined in section 9 of the Urban Development Act 2020), if section 98 of that Act applies”</p>
s 67(3)(ba)	<p>Insert:</p> <p>“(ba) a national planning standard”</p>
s 69(4)	<p>Insert:</p> <p>“(4) On and from the commencement of this subsection, Schedule 3 ceases to be applicable to fresh water.”</p>