

**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
IDENTIFYING TECHNICAL EVIDENCE REQUIRED IN SUPPORT OF
AGREED PROVISIONS
18 February 2022**

Judicial Officer: Judge Borthwick

Respondent's Solicitor
PO Box 4341 CHRISTCHURCH 8140
DX WX11179
Tel +64 3 379 7622
Fax +64 379 2467

WYNNWILLIAMS

Solicitor: P A C Maw
(philip.maw@wynnwilliams.co.nz)

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 (**pSWLP**).

Background

- 2 The Court directed that the provisions of the pSWLP that have been settled between the parties following mediation and expert conferencing be set down for hearing in the weeks commencing 14 and 21 March 2022 (**all of parties' hearing**).¹
- 3 The Court indicated that it anticipates that the witnesses required for the all of parties' hearing will include:
- (a) The deponents of the affidavits filed in support of the applications seeking orders by consent;
 - (b) The Council's planning witnesses whose evidence supports the agreements reached at expert conferencing; and
 - (c) Any technical experts whose advice was relied upon to inform the agreed amendments to the provisions.
- 4 The parties were directed to identify any witnesses to give technical evidence in support of the agreed amended provisions (per [3](c) above) and report this to the Court.

Technical evidence required

- 5 The Council has liaised with the parties as to the technical evidence required and advises that the parties jointly propose the following technical expert witnesses give evidence (by way of affidavit) in support of the agreed amended provisions:
- (a) Zane Moss (Southland Fish and Game Council) in relation to Topic B1 Issue 16 (Appendix K).
 - (b) Roger Hodson (Council) in relation to Topic B2 Issue 22 (Appendix E).

¹ Record of Pre-Hearing Conference dated 15 February 2022 at [8].

- (c) Cain Duncan (Fonterra Co-operative Group Ltd and DairyNZ Ltd) in relation to Topic B2 Issues 25, 26, 33, & 36-39 (Agricultural effluent)
- (d) Chris Phillips (Rayonier New Zealand Ltd) in relation to Topic B5 forestry matters.²
- (e) Ross Monaghan (Council) in relation to Topic B5 matters relating to critical source area management, setbacks, and intensive winter grazing.

Availability issue

- 6 Mr Monaghan is currently on leave and does not have access to computer facilities or reliable internet/cell phone coverage. He is not scheduled to return to the office until Monday 7 March 2022. Mr Monaghan has been identified by Mr McCallum-Clark as the expert upon whose expertise he relies to support the provisions agreed.
- 7 While Mr Monaghan is not available to prepare and swear affidavit evidence by Friday 25 February 2022, his evidence in chief filed on Friday 11 February, and the Joint Witness Statements from the Farm Systems conferences dated 22 November and 6 December 2021, cover all matters that Mr McCallum-Clark relies upon, and which would be included in such an affidavit.
- 8 On this basis, Counsel seeks alternative directions that the relevant parts of Mr Monaghan's 11 February statement of evidence and the Joint Witness Statements dated 22 November and 6 December 2021 be brought to the Court's attention (by way of memorandum of counsel filed at the same time as the other affidavit evidence), and that Mr Monaghan could be called at the all of parties' case to swear-in his evidence.

Directions sought

- 9 For the reasons set out above, Counsel respectfully seeks amended directions regarding the production of technical evidence by Mr Monaghan. Counsel seeks that Mr Monaghan be called in the all of parties' case to swear-in his evidence, and that in the meantime, the

² Counsel record that Chris Phillips has been put forward on the basis that he is an independent forestry expert from Manaaki Whenua Landcare Research. If the Court requires additional technical evidence in relation to forestry related matters, additional experts from Southwood Export Limited (an appellant) can be made available.

Court be directed to the relevant parts of his 11 February 2022 statement of evidence and the 22 November and 6 December 2021 Joint Witness Statements, by way of memorandum of counsel filed on 25 February 2022.

DATED this 18th day of February 2022



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