

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

IN THE MATTER of the Resource Management Act 1991

AND of appeals under clause 14 of the First Schedule of the Act

BETWEEN **SOUTHWOOD EXPORT LIMITED, KODANSHA TREE FARM NEW ZEALAND LIMITED AND SOUTHLAND PLANTATION FOREST COMPANY OF NEW ZEALAND LIMITED (ENV-2018-CHC-046)**

Appellants

AND **SOUTHLAND REGIONAL COUNCIL**

Respondent

AND **CAMPBELL'S BLOCK
S 274 PARTIES**
(as continued on next page)

MEMORANDUM OF COUNSEL FOR APPELLANT

Dated: 12 October 2021

**AWS LEGAL
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AND PETER CHARTRES

AND DIRECTOR-GENERAL OF CONSERVATION

AND FEDERATED FARMS OF NEW ZEALAND

AND ROBERT GRANT

AND RAYONIER NEW ZEALAND LIMITED

**AND ROYAL FOREST AND BIRD PROTECTION SOCIETY
OF NEW ZEALAND INCORPORATED**

AND STONEY CREEK STATION

AND THE TERRACES LIMITED

MAY IT PLEASE THE COURT

Introduction

1 This memorandum of counsel is filed on behalf of Southwood Export Ltd, Kodansha Tree Farm New Zealand Limited and Southland Plantation Forest Company of New Zealand Limited (together referred to as “SWEL”) in response to paragraphs [15](c)-(d) of the directions of the Court issued on 4 October 2021.

Background

2 SWEL is an appellant in appeal reference number ENV-2018-CHC-46.

3 The appeal seeks that forestry activities such as stick raking and herbicide spraying can occur for forestry purposes without a resource consent.

4 The parts of the proposed Plan that have been appealed by SWEL are:

(a) The definition of “cultivation”

(b) Rule 25(a)(iv)

5 SWEL is also a section 274 party in respect of the following further appeals as they relate to the definition of cultivation and Rule 25:

(a) Southland Fish and Game Council: ENV-2018-CHC-37

(b) Royal Forest and Bird Protection Society of New Zealand Incorporated: ENV-2018-CHC-50

(c) Rayonier: ENV-2018-CHC-49

Direction [15](c)(i) - Proposed Evidence Exchange Timetable

6 The proposed evidence timetable is challenging for SWEL.

7 The proposed timetable provides for just five working days for review of the Regional Council’s statements.

8 SWEL requests a two week period before “Will Say” statements are provided (submission would therefore occur on 5 November 2021), so that appropriate consideration can be given to the content of the Regional Council’s position statement and there is sufficient time for witness briefing to occur.

Direction [15](c)(ii) – Issues to Resolve and to be Decided

- 9 SWEL considers the list of essential issues of fact and opinion and legal issues to be decided are accurate and complete.
- 10 SWEL considers that it is not necessary to include the further issue proposed by Rayonier at paragraph 11 of its memorandum as what is described is a factor that informs the exercise of the Court's discretion.

Direction 15(c)(iii) – Witnesses to be called

- 11 SWEL is exploring whether it is possible to share witnesses. If sharing is not possible, SWEL may call up to 5 witnesses with the following areas of expertise:
- (a) A representative of SWEL;
 - (b) A professional forester;
 - (c) A water quality specialist;
 - (d) A specialist in aerial spraying of forestry;
 - (e) A planner;

Direction 15(c)(iv) – expert availability for expert conferencing

- 12 SWEL's witnesses will generally be available in the period 22 November to 10 December 2021.
- 13 SWEL notes that no venue has yet been advised for expert conferencing and requests that any venue selected can accommodate attendance by AVL.

Direction 15(d) – attendance at PHC

- 14 Counsel will attend the pre-hearing conference in person in Christchurch.

DATED at Invercargill this 12th day of October 2021



K L Rusher
Counsel for Southwood Export Limited