

UNDER the Resource Management Act 1991 ("RMA")

IN THE MATTER of appeals under Clause 14 of the First Schedule to the RMA in relation to the decision on the proposed Southland Water and Land Plan

BETWEEN **WILKINS FARMING COMPANY LIMITED**
Appellant

AND **SOUTHLAND REGIONAL COUNCIL**
Respondent

MEMORANDUM OF COUNSEL SEEKING WAIVER FOR FILING WILL SAY

1 NOVEMBER 2021

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MAY IT PLEASE THE COURT

1. This memorandum is filed on behalf of Wilkins Farming Company Limited (**Wilkins**), the appellant in proceedings ENV-2020-CHC-000030 and section 274 party in other proceedings relating to the proposed Southland Water and Land Plan (**pSWLP**).
2. Counsel attended the pre-hearing conference on 19 October 2021 and understood:
 - (a) Wilkins was directed to:
 - (i) By 27 October, file a formal memorandum opposing the withdrawal of parts of the appeals by Robert Grant and Campbell's Block by 27 October;
 - (ii) By 29 October, provide the Court and parties with a formal record of the relief it would be seeking on the issues it would be pursuing; and
 - (iii) By 19 November, file and circulate Will Say statements.
 - (b) After that:
 - (i) Topic B1 – water takes – would then move into Tranche 2 and progress further only after any jurisdictional challenges had been determined on the Judge's return from sabbatical.
 - (ii) Topic B5 – farming – would proceed with expert conferencing and an evidence exchange timetable that has Wilkins exchanging evidence on 20 December 2021.
3. As required by the Court, Wilkins has since:
 - (a) Filed a memorandum on 27 October 2021 opposing the withdrawal of the parts of the appeals by Robert Grant and Campbell's Block relating to Rule 20(a)(iii)(1);
 - (b) Filed a memorandum on 29 October 2021 setting out the relief sought in Topic B1 and Topic B5:
 - (i) In Topic B1, Wilkins' requests are classified as Issue 6 and Issue 17.

- (ii) In Topic B5, the relief Wilkins intends to pursue is that in the appeals of Robert Grant and Campbell's Block relating to Issues 36 and 49.

4. The Regional Council has:
 - (a) indicated it intends to challenge Wilkins' scope to pursue the requests for relief in Topic B1.
 - (b) filed a memorandum suggesting a further formal process be followed for Wilkins to oppose the withdrawal of Topic B5, Issues 36 and 49.
5. The Court has not yet responded to the Council's suggested process, nor exercised its discretion regarding the intended withdrawal of these appeal points.
6. Wilkins respectfully seeks an extension of the time for filing its Will Say statements on both Topics B1 and B5 until 12 November 2021. This will:
 - (a) Provide time for the Court to confirm whether Wilkins opposition to the withdrawal of parts of the appeals of Robert Grant and Campbell's Block (as they relate to Issues 36 and 49) has been successful;
 - (b) Not put Wilkins to unnecessary cost until it is known whether the Court has allowed it to step into the appellants' shoes to pursue Topic B1, Issues 36 and 39; and
 - (c) Not prejudice any party as Topic B1 is to then be placed on hold, with expert conferencing to occur only after Judge Borthwick has considered any scope challenges on her return and an expectation the topic not be heard until June 2022.

DATED 1 November 2021



B S Carruthers
Counsel for Wilkins Farming Company Limited