

**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)

WILKINS FARMING CO
(ENV-2018-CHC-30)

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**STATEMENT OF EVIDENCE OF RACHAEL MILLAR ON BEHALF OF THE
SOUTHLAND REGIONAL COUNCIL
18 June 2019**

Judicial Officer: Judge Borthwick

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**GORE DISTRICT COUNCIL, SOUTHLAND DISTRICT
COUNCIL & INVERCARGILL DISTRICT 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, SOUTHLAND
PLANTATION FOREST COMPANY OF NZ,
SOUTHWOOD EXPORT LIMITED**
(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

Introduction

- 1 My full name is Rachael Jane Millar.
- 2 I am the Strategy and Partnerships Advisor at Southland Regional Council (**Council**).
- 3 I hold the qualifications of Bachelor of Resource Studies (First Class Honours) and Master of Professional Studies (Environmental Management) from Lincoln University.
- 4 I have thirteen years professional planning experience (2001 to 2014) and have held a variety of positions within Environment Southland commencing in the Policy and Planning Division in mid 2002 before transferring to the Science and Information Directorate in late 2014.
- 5 I have had a low level of direct involvement in the development of the proposed Southland Water and Land Plan (**pSWLP**). My role as Science Programme Manager from late 2015 to mid 2018 comprised of managing the team of scientists delivering the Southland Science Programme, which provides an information base for the Freshwater Management Unit (**FMU**) process now underway. The same team also provided scientific input into the pSWLP.
- 6 Since mid 2018 I have been leading the Values and Objectives workstream of the People, Water and Land programme. This programme builds on the pSWLP and is the vehicle for advancing the FMU process going forward.
- 7 I have been asked by the Council to prepare evidence for these proceedings.

Code of Conduct

- 8 I confirm that I have read the Code of Conduct for expert witnesses as contained in the Environment Court Practice Note 2014. I have complied with the Code of Conduct when preparing my written statement of evidence and will do so when I give oral evidence.
- 9 The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence. The reasons for the opinions expressed are also set out in my evidence.
- 10 Other than where I state I am relying on the evidence of another person, my evidence is within my area of expertise. I have not omitted to

consider material facts known to me that might alter or detract from the opinions that I express.

Scope

- 11 The Court has requested further evidence from the Council in relation to the FMU process.
- 12 Accordingly, I have been asked by the Council to provide evidence in relation to the FMU process, specifically relating to:
 - (a) the FMU process moving forward;
 - (b) how the Council is planning to deal with the introduction of freshwater objectives and limits following the FMU process; and
 - (c) whether the Council has considered prioritising any of the FMUs.
- 13 In preparing this evidence, I have read and considered the following documents:
 - (a) pSWLP
 - (b) National Policy Statement for Freshwater Management 2017
 - (c) Ministry for the Environment. 2017. *A Guide to the National Policy Statement for Freshwater Management 2014 (as amended 2017)*. Wellington: Ministry for the Environment.
 - (d) Agenda and minutes of the Environment Southland Council meeting held on 11 November 2015 in relation to Item 3: NPSFM – Approval of Progressive Implementation Programme
 - (e) Agenda and minutes of the Environment Southland Strategy and Policy Committee meeting held on 17 October 2018 in relation to Item 1 Adoption of Revised Progressive Implementation Programme
 - (f) Agenda and minutes of the Environment Southland Council meeting held on 7 November 2018 in relation to Item 4 – People Water and Land Programme Update
 - (g) Agenda of the Environment Southland Strategy and Policy Committee meeting held on 12 June 2019 in relation to Item 4 – People Water and Land Programme Update
 - (h) Regional Forum Terms of Reference December 2018

- (i) Various Council and Te Ao Marama Inc Board workshop papers and minutes

Executive Summary

- 14 The FMU process for Southland builds on the pSWLP and other preparatory work. This process is outlined in the October 2018 Progressive Implementation Programme (**PIP**) for the region. Environment Southland and Ngai Tahu ki Murihiku's partnership programme, People, Water and Land, is the vehicle for advancing the FMU process.
- 15 The People, Water and Land programme commenced in mid 2018 with the expansion of Environment Southland's non-regulatory programmes to prepare the way for a transformation in land use practices and the introduction of limits and methods under the National Policy Statement for Freshwater Management 2014 (amended 2017) (**NPSFM**). A workstream to identify values and formulate draft freshwater objectives under the NPSFM comprised of community engagement and desktop science processes has been running concurrently. The outputs from this process will be given to a community-based group, the Regional Forum, to subsequently provide advice to Environment Southland's Council and Te Ao Marama Inc Board members on how these values and freshwater objectives can be best achieved. The advice will form the basis of a plan change to the pSWLP (or potentially a series of plan changes) that will include freshwater objectives, policies, limits (freshwater quality and quantity) and/or targets and rules for each FMU, in accordance with the NPSFM.
- 16 Since the introduction of the original NPSFM in 2011, Council has considered various ways to undertake the FMU process, including a staged approach with each FMU being addressed individually, but is proceeding with a regional approach (while still recognising the specific values and challenges across the different parts of the region) due to resourcing constraints and the commonality of issues in each FMU.

Overview of the FMU process moving forward

- 17 The FMU process for Southland is outlined in the PIP for the region, which was prepared in accordance with the NPSFM. The current PIP was publicly notified on 31 October 2018 and replaced the November

2015 PIP, to reflect the 2017 changes in the NPSFM and the recently established People, Water and Land programme.

- 18 The People, Water and Land programme builds on the pSWLP and other preparatory work¹ and is the vehicle for advancing the FMU process going forward. The programme is a partnership programme with Ngai Tahu ki Murihiku through its environmental arm (Te Ao Marama Inc).
- 19 People, Water and Land is an integrated approach to freshwater management in Southland that is designed to improve the region's land and water comprising of three main workstreams as shown in the following diagram and outlined below in paragraphs 20 to 34.



Diagram 1 – People, Water and Land Programme overview

Action on the Ground workstream

- 20 The “Action on the Ground” workstream seeks to prepare the region for the transformation in land use practices required to deliver better outcomes for Southland’s water bodies. It commenced in mid 2018 and includes several non-regulatory projects that support, facilitate and lead activities following a catchment approach. For example, in the Waituna catchment Environment Southland is working in a partnership with local

¹ This preparatory work includes the development of a model of Southland’s economy (the Southland Economic Project) and completion of a science programme characterising the natural systems of the region (the Southland Science Programme).

tangata whenua and other agencies as a first step to a healthy lagoon and catchment. In the Aparima FMU Environment Southland and other agencies are supporting a land-manager led initiative to raise awareness and to reach or exceed good management practice on all properties. Across the region there are a range of other projects underway to engage, educate and empower individuals and communities. This workstream is designed to lay the foundations that will enable the region to better transition into implementation of the limits and methods set as part of the remainder of the People, Water and Land programme.

Values and Objectives workstream

- 21 The “Values and Objectives” workstream commenced in mid 2018 and has been designed by Council and Te Ao Marama Inc staff with support from external experts to identify values and formulate draft freshwater objectives for each FMU in accordance with Policy CA2 of the NPSFM. It is closely connected with the Regional Forum workstream and also provides direction to the Action on the Ground workstream.
- 22 In addition to identifying values and formulating draft freshwater objectives, the community engagement occurring through this workstream has also been designed to increase public awareness of freshwater, as well as the People, Water and Land programme and the processes that will be occurring as part of the programme over the coming years.
- 23 A significant community engagement process has been undertaken since mid 2018. This comprised an information gathering project to understand how best to engage with the community, a regional survey and FMU based focus group sessions. The focus groups sessions were designed to explore similarities and differences between the survey responses for the region and the various FMUs, and generate additional data to sense check the package of values and draft attributes and freshwater objectives being presented to the Regional Forum in September this year.
- 24 In addition to the wider community engagement programme, Te Ao Marama Inc has led a specific Māori values collection programme and a cultural monitoring programme is also in development. The Māori values collection programme consists of a literature review of Māori values related to freshwater followed up with in-depth targeted

interviews with kaumātua, Māori community groups and interested tangata whenua. It is intended to integrate this work with the above as part of the package of information for the Regional Forum (which is discussed further below).

- 25 A desktop science process is currently being undertaken to distil the information from the community engagement process and integrate it with information contained within the relevant statutory instruments, regional planning documents and scientific reports. This work will be presented to the Regional Forum in September 2019.
- 26 The methodology being used for this process follows the approach outlined in Policy CA2 in the NPSFM and the guide to the NPSFM (MfE, 2017)² as closely as possible, within the structure of the People, Water and Land programme and overarching policy framework of the pSWLP (Policies 44 to 47).
- 27 Policy CA2(f) identifies a range of matters which should be assessed at all relevant steps of formulating freshwater objectives (i.e. when applying the processes in Policy CA2(a-e)). The desktop science methodology does not at this stage include explicit consideration of the social, cultural or economic implications (because the limits and other methods required to achieve the draft freshwater objectives have not been identified yet) and therefore the outputs in September 2019 can only be considered to be draft freshwater objectives at that time. The People, Water and Land programme structure and Regional Forum process provides for the consideration of social, cultural and economic implications to occur post November following the iterative process implicit in the NPSFM and described explicitly in the guide to the NPSFM (MfE, 2017)². It is only following that stage of the process that the Regional Forum could be in a position to recommend finalised freshwater objectives and the limits necessary to achieve them.
- 28 In addition to the values and draft freshwater objectives package, an assessment of the current state of the region's water bodies against the draft freshwater objectives will be presented to the Regional Forum in November 2019.

² Ministry for the Environment. 2017. *A Guide to the National Policy Statement for Freshwater Management 2014 (as amended 2017)*. Wellington: Ministry for the Environment.

Regional Forum workstream

- 29 The Regional Forum is a community-based group established in March 2019 to advise Environment Southland's Council and Te Ao Marama Inc Board members on how best to work towards achievement of the values and draft freshwater objectives identified through the Values and Objectives workstream. Members of the Regional Forum will consider the limits and specific policies and rules as well as the on-ground initiatives required to make change and improve Southland's freshwater so that the freshwater objectives are achieved. The advice will form the basis of a plan change to the pSWLP that will include freshwater objectives, policies, limits (freshwater quality and quantity) and/or targets and rules for each FMU, in accordance with the NPSFM.
- 30 The Regional Forum has an advisory role with Environment Southland's Council retaining its decision-making role. The Council will ultimately make the decision on whether to accept or reject, in part or as a whole, the package of integrated land and water management tools proposed by the Regional Forum.
- 31 As a community-based group, the Regional Forum members include people that comprise an urban and rural balance that appropriately reflects the region; a broad geographic distribution covering as many 'communities of interest' as possible; and a defined role for tangata whenua to reflect the principles of the Treaty of Waitangi. The members do not represent particular interest groups. Te Ao Marama Inc Board members were a part of the selection process alongside Councillors.
- 32 The work programme for the Regional Forum consists of regular workshops and fieldtrips which started in April 2019. The Forum will conclude when it has completed the proposal, including the cohesive package of regulatory and non-regulatory policy and a practical implementation plan for integrated land and water management, consisting of preferred objectives, limits, and methods, for the five freshwater management units. The workshops will occur in three main phases:
- (a) Developing the team and building knowledge (April 2019 to July 2019);
 - (b) Sense checking Southland's values and objectives for water (August 2019 to February 2020);

- (c) Coming up with advice on limits, methods and preferred tools (ways to meet them) (March 2020 to December 2022)

The diagram below shows the work programme, which will be used as a tool in the workshops to track progress:



- 33 The Regional Forum will be supported by technical expertise coordinated by Environment Southland. The nature of technical support will include information, advice and assistance from internal and external parties and interest groups. The technical support and knowledge provided to the Forum is expected to be in relation to matters including but not limited to science, economics, Mātauranga Māori, engineering, social and policy.
- 34 It is important the wider community is aware of the Forum's work, both keeping up-to-date with it, and providing feedback to the Forum via either technical staff, interested parties or via specific engagement points in the process. The responsibility for providing updates and

engaging with the community sits with Environment Southland, who will work closely with the Chairperson of the Forum, who will be selected by the Forum members in July. Forum members will help with this community awareness.

How the Council is planning to deal with the introduction of freshwater objectives and limits following the FMU process

- 35 As outlined previously, Environment Southland notified a revised Progressive Implementation Programme on 31 October 2018 to better reflect the People, Water and Land programme and the 2017 amendments to the NPSFM. The revised programme provides for a Plan Change containing freshwater objectives, limits and targets (for all FMUs) to be notified by 2022 and operative by 2025.
- 36 While a single plan change is indicated by the Progressive Implementation Programme, the Regional Forum may wish to advise that a series of plan changes be notified and could potentially recommend prioritising a FMU or sub-unit based on the assessment of the current state of the region's water bodies against the draft freshwater objectives or other relevant information.

Whether the Council considered prioritising any of the FMUs

- 37 Since the introduction of the original NPSFM in 2011 Council has considered various ways to undertake the FMU process. The 2015 Progressive Implementation Programme contained a staged approach with each FMU being addressed individually. This provided for the Fiordland and the Islands FMU to be advanced first, essentially as a pilot, while the Southland Science Programme and Southland Economic Project were being completed to inform the remainder of the FMU processes. The Maitara and Aparima FMU processes were to be advanced next in parallel, with the Oreti and Waiau FMU processes being the last to commence (also in parallel).
- 38 As the pSWLP process continued and the People, Water and Land programme was developed, it became increasingly evident that there was insufficient resource within either Environment Southland or the wider community to take the staged approach proposed by the 2015 Progressive Implementation Programme. Council and Te Ao Marama Inc staff members, stakeholder representatives and even members of the community in some cases would be the same people involved in

each FMU process. This was considered to place too heavy of a burden on those people and be impractical in terms of resourcing. Further, there is a degree of commonality in the issues faced in each FMU therefore it was considered that a regional approach, while still recognising the specific values and challenges across the different parts of the region, would be the most effective and efficient way forward.

- 39 The Waituna catchment was the subject of many Council and Te Ao Marama Inc Board conversations given the scale of the issues and amount of scientific information available for this catchment. A decision was made as part of the formulation of the 2015 Progressive Implementation Programme not to advance this catchment ahead of other catchments. The reasons for this were two-fold. First, there was concern about the mental wellbeing of the Waituna community, which had essentially been in an emergency response situation since 2011. It was considered that the introduction of a regulatory process too early could negatively impact on the mental wellbeing of members of the community and potentially undo the positive gains being achieved through the non-regulatory approaches being undertaken in partnership with the community and various other organisations. Secondly, it was deemed likely that commencing a regulatory process in this catchment would divert significant resources away from completing the Southland Science Programme and advancing the other FMU processes.

DATED this 18th day of June 2019



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Rachael Millar