

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

applications for resource consents to take and use
water in the Waitaki River Catchments

**CASE MANAGEMENT MEMORANDUM NO. 2 OF COUNSEL
ON BEHALF OF MACKENZIE WATER RESEARCH LIMITED,
SOUTHDOWN HOLDINGS LIMITED, FIVE RIVERS LIMITED
AND KILLERMONT STATION LIMITED
9 SEPTEMBER 2009**

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MAY IT PLEASE THE COMMISSIONERS:

Introduction

1. This memorandum is lodged on behalf of Mackenzie Water Research Limited ("**MWRL**"), Southdown Holdings Limited, Five Rivers Limited and Killermont Station Limited.
2. ECan officers have advised that all evidence for the Upper Waitaki Catchment hearings may be read out in full.
3. Counsel respectfully seeks directions that the evidence for MWRL, Southdown Holdings, Five Rivers and Killermont Station either be read by the Hearing Panel prior to the respective hearings (time permitting) or on the commencement of the respective hearings, except in relation to the following briefs:
 - (a) In relation to MWRL :
 - (i) The joint statement by Dr Bright and Dr Robson relating to the cumulative effects on water quality; and
 - (ii) Mr Kyle's Planning evidence.
 - (b) In relation to the Southdown Holdings, Five Rivers and Killermont Station applications:
 - (i) Dr Robson's evidence on farm management plans;
 - (ii) Parts of Mr Brown's landscape evidence, especially the presentation of visual materials;
 - (iii) Mr Kyle's planning evidence, particularly in relation to proposed conditions of consent.
4. The directions are sought for the following reasons:
 - (a) There is no prejudice to any party as all the evidence will have been pre circulated.
 - (b) Pre-circulation of the evidence will also allow the Hearing Panel and all submitters to either:
 - (i) Pre-read all material in advance of the commencement of the hearing; or

- (ii) Adjourn for a short period prior to the commencement of each case to read the evidence.
 - (c) Section 41C of the Resource Management Act 1991 authorises the Hearing Panel to make a direction that the evidence should be taken as read. This approach is consistent with the Hearing Panel's direction that all evidence shall be pre-circulated.
 - (d) It is clear from cost estimates for the hearing received from the ECan officers that a significant proportion of the hearing cost will be incurred over the course of the hearing itself. Taking the evidence as read will significantly reduce hearing time and assist in keeping costs to a minimum.
 - (e) Finally, we note that the total costs associated with the processing and hearing of the applications are becoming prohibitive for many of the applicants. The estimated total costs are in excess of \$1.7m. Accordingly, it is critical that cost savings are made wherever possible.
5. It is appreciated that this approach is an indulgence and in normal circumstances full reading of the evidence would be supported. However, I submit that the magnitude of the ongoing cost exposure implores an efficient approach that minimises hearing costs where practicable.
6. If the abovementioned approach is adopted, I estimate that the hearing time for both the MWRL and Southdown Holdings, Five Rivers and Killermont Station cases would be substantially reduced to no more than three days each. A list of experts preparing evidence for each case is contained in **Attachment 1**.

Dated 9 September 2009



C N Whata / C M Sheard

Counsel for Mackenzie Water Research Limited, Southdown Holdings Limited, Five Rivers Limited and Killermont Station Limited

ATTACHMENT 1**MWRL EXPERTS**

1. Joint brief of evidence by Dr Bright and Dr Robson (water quality)
2. Mr McIndoe (mass water balance)
3. Dr Snow (modelling approach)
4. Dr Monaghan (review of OVERSEER model)
5. Dr Coffey (aquatic ecology)
6. Dr Ryder (peer review of aquatic ecology)
7. Dr Robson (farm management)
8. Mr Kyle (planning)

SOUTHDOWN HOLDINGS, FIVE RIVERS AND KILLERMONT EXPERTS

1. Dr Bright (water quality)
2. Mr McIndoe (mass water balance)
3. Dr Ryder (aquatic ecology)
4. Dr Robson (farm management plans)
5. Mr Englebrecht (overview of farm management issues)
6. Mr Brown (landscape)
7. Mr Mikaere (cultural)
8. Mr Kyle (planning)