

**BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I MUA I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

IN THE MATTER of the Resource Management Act 1991
AND of appeals under clause 14 of the First
Schedule of the Act
BETWEEN ARATIATIA LIVESTOCK LIMITED
(ENV-2018-CHC-29)
... (continued on last page)
Appellants
AND SOUTHLAND REGIONAL COUNCIL
Respondent

**MINUTE OF THE ENVIRONMENT COURT
(1 December 2020)**

Introduction

[1] This Minute is issued for case management purposes and responds to the matters raised in the memorandum filed by Southland Regional Council dated 9 November 2020.

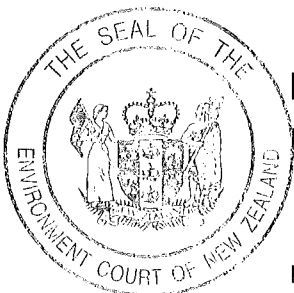
Timetable directions

[2] First, I will enlarge the timetable directions as requested.

[3] Second, I will include further case management directions that are to apply in the event that mediation does not result in a full settlement of the appeals.

Mediators

[4] Environment Commissioners Anne Leijnen and Kate Wilkinson will facilitate mediation.



[5] Environment Commissioner Wilkinson is a member of Federated Farmers, she does not hear appeals where Federated Farmers is a party, however, she routinely facilitates their mediation.

[6] Any party that is concerned with Commissioner Wilkinson's role as mediator, is to advise the court by **Friday 11 December 2020**.

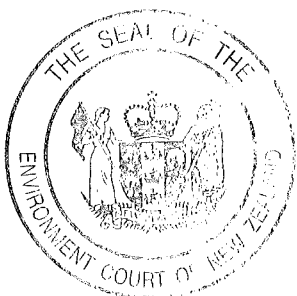
Location of mediation

[7] While mediation would ordinarily take place in Invercargill, given the number of topics and parties involved consideration is to be given for locating more centrally (in Christchurch and/or Dunedin).

Directions

[8] Accordingly, I direct:

- (a) **six weeks** prior to mediation on any given topic, the Regional Council is to provide the parties with a statement in relation to the issues covered by that topic, addressing:
 - (i) which parts of the National Policy Statement for Freshwater Management 2020 ("NPSFM 2020"), the Regional Council intends to implement in the pSWLP;
 - (ii) which appeal points the Regional Council considers provide scope to implement those parts of the NPSFM 2020 identified pursuant to (i) above;
 - (iii) prescriptive procedural requirements in the NPSFM 2020 that will require the Regional Council to revisit the relevant topic's appeal points;
 - (iv) whether any provisions in the topic are considered to duplicate or conflict with the National Environmental Standards for Freshwater ("Freshwater NES") or Stock Exclusion Regulations, or cover similar matters such that some appeal points may become moot;
 - (v) whether any appeal points in the topic seek relief that is considered to duplicate or conflict with the Freshwater NES; and



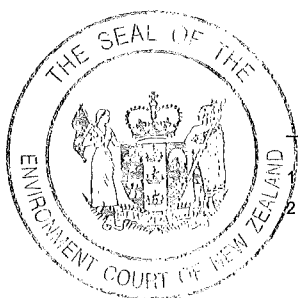
- (vi) whether any appeal points in the topic seek relief that is moot as a result of the Stock Exclusion Regulations.

Pre-mediation consultation

- (b) **four weeks** prior to mediation:
- (i) the Regional Council will have conferred with each of the parties on their interest(s) in the relevant topic and reasons for seeking change. If the planning witnesses or other expert witnesses for two or more parties have conferenced independently in accordance with the court's Practice Note and reached an agreed position on relief, their Joint Witness Statement will be provided to the Regional Council; and
 - (ii) parties are to indicate whether there is any change in relief¹ in light of the technical papers and the requirements of the NPSFM 2020, Freshwater NES and Stock Exclusion Regulations; and
- (c) **fifteen working days** prior to mediation, the Regional Council will circulate technical paper(s) setting out relevant facts and the significant resource management issues that arise from the same, inviting comment from the parties' expert advisors for inclusion in the paper(s). It is anticipated these reports will be from persons other than the planning witnesses.
- (d) **five working days** prior to the mediation the Regional Council will circulate:
- (i) the final copy of the technical paper(s);
 - (ii) an options paper which identifies the relief proposed by the parties together with any of the amendments proposed in any Joint Witness Statement (if different from the instructing party(ies)); and
 - (iii) an indication, without prejudice, as to whether the Regional Council will:
 - consider adopting with or without amendment the relief sought by another party or propose an alternative relief, and evaluate each² in line with s 32;

or

 - support the Decision Version of the pSWLP (without amendment).



¹ Including the withdrawal of any part of an appeal.

² That is, all relief proposed by the parties as opposed to evaluating the Regional Council's preferred relief.

Other Directions

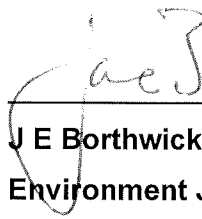
[9] Having consulted with the parties, the Regional Council is to confirm with the Registry by **Friday 29 January 2021**, whether there is a more suitable location (other than Invercargill) for mediation of some or all of the topics.

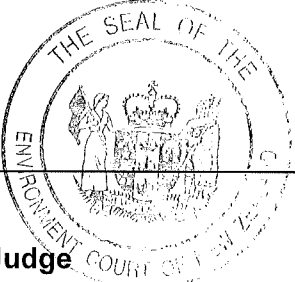
[10] If the appeal(s) do not fully settle, then no later than **14 working days** after the conclusion of mediation³ the respondent (having consulted with the parties) is to file a joint memorandum setting out the following:

- (a) a list of the essential issues of fact and opinion to be resolved and legal issues to be decided;
- (b) the number of witnesses to be called (and, if relevant, their area of expertise);
- (c) if experts are to be called then whether (and when) the experts are to engage in conferencing and any requirement for facilitation of conferencing by an Environment Commissioner;
- (d) the sequence of expert conferencing;
- (e) a timetable for filing and exchange of evidence;
- (f) the estimated duration of the hearing; and
- (g) any other matters to ensure the fair, orderly and efficient hearing of the proceeding.

[11] Any party who wishes to apply for any further directions should do so in writing, taking care to serve all other parties. The matter will then be set down for a telephone conference or pre-hearing conference.

[12] Leave is reserved for the parties to seek further (or amended) directions.


J E Borthwick
Environment Judge



Issued: 1 December 2020

³ Note that the Environment Commissioner may initiate this process at mediation, so parties are to come prepared.

List of appellants

ENV-2018-CHC-000026	Transpower New Zealand Limited
ENV-2018-CHC-000027	Fonterra Co-operative Group Limited
ENV-2018-CHC-000028	Horticulture New Zealand
ENV-2018-CHC-000029	Aratiatia Livestock Limited
ENV-2018-CHC-000030	Wilkins Farming Co Limited
ENV-2018-CHC-000031	Gore District Council & others
ENV-2018-CHC-000032	DairyNZ Limited
ENV-2018-CHC-000033	H W Richardson Group Limited
ENV-2018-CHC-000034	Beef + Lamb New Zealand
ENV-2018-CHC-000035	Beef + Lamb New Zealand
ENV-2018-CHC-000036	Director-General of Conservation
ENV-2018-CHC-000037	Southland Fish and Game Council
ENV-2018-CHC-000038	Meridian Energy Limited
ENV-2018-CHC-000039	Alliance Group Limited
ENV-2018-CHC-000040	Federated Farmers of New Zealand
ENV-2018-CHC-000041	Heritage New Zealand Pouhere Taonga
ENV-2018-CHC-000042	Stoney Creek Station Limited
ENV-2018-CHC-000043	The Terraces Limited
ENV-2018-CHC-000044	Campbell's Block Limited
ENV-2018-CHC-000045	Robert Grant
ENV-2018-CHC-000046	Southwood Export Limited & Others
ENV-2018-CHC-000047	Te Rūnanga o Ngāi Tahu, Hokonui Runāka, Waihopai Runāka, Te Rūnanga o Awarua & Te Rūnanga o Oraka Aparima
ENV-2018-CHC-000048	Peter Chartres
ENV-2018-CHC-000049	Rayonier New Zealand Limited
ENV-2018-CHC-000050	Royal Forest and Bird Protection Society of New Zealand Incorporated

