

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**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 TRANSPOWER NEW ZEALAND
LIMITED

(ENV-2018-CHC-26)

FONterra CO-OPERATIVE
GROUP

(ENV-2018-CHC-27)

(and all other appellants listed in the
Schedule attached)

Appellants

AND SOUTHLAND REGIONAL
COUNCIL

Respondent

**MINUTE OF THE ENVIRONMENT COURT
(4 October 2021)**

Introduction

[1] This Minute is issued for the purpose of case management, in response to the memorandum for the Southland Regional Council dated 24 September 2021 reporting on the outcome of mediation and requesting that all unresolved issues be set down for hearing.

pSWLP – MINUTE 4 Oct 2021



Pre-hearing conference

[2] The court intends setting down proceedings for a pre-hearing conference. We estimate 35 parties are involved in the appeals.

[3] With COVID-19 Level 2 social distancing restrictions, the court will struggle to find a courtroom large enough in Invercargill. We have access to a suitable courtroom in Christchurch with AVL (audio-visual link). This means parties can either attend in person, or attend digitally via AVL.

[4] Anyone objecting in principle to the pre-hearing conference occurring in Christchurch on **Tuesday 19 October 2021 at 10.00am** is to file a memorandum **urgently** giving reasons.

Mediation

[5] Mediations have been held for Topics B1 through B4, B6, and B7 with many issues resolved (see Regional Council's Appendix A). In respect of those issues that have been resolved, it is proposed that documentation seeking consent orders from the court will be filed by **Friday 19 November 2021**.

Hearing

[6] Mediation has not been held for Topic B5 (Farming), due to weather and COVID-19 cancellations. While several meetings between parties have occurred, agreement resolving the parties' interest in the appeals has not been reached.

[7] It is the Regional Council's view that the entirety of Topic B5 (farming) proceed to a hearing, together with the other Topic B unresolved issues.¹

[8] Three hearings are proposed as follows:

¹ As set out in Appendix B of the respondent's memorandum.

- (i) farming – topics B2, B3, B4 and B5;
- (ii) infrastructure and Manapouri Power Scheme – Topic B6; and
- (iii) water Quality – Topic B1.

For an outline of the issues that arise under each topic, see the Regional Council's Appendix B.

[9] The hearings are proposed to commence on 14 March 2022, we note the total hearing time across all three is estimated to be 4-6 weeks.

[10] It is the court's preliminary view that the Infrastructure and Manapouri Power Scheme should proceed last. I understand the Regional Council and Meridian Energy Ltd have a difference of opinion on the order of hearing. I will hear from parties in that regard at the pre-hearing conference.

Expert conferencing

[11] The court will facilitate expert conferencing and Commissioners are available between 22 November and 10 December 2021 as proposed by the Regional Council in its Appendix C.

[12] Before any court-facilitated conferencing takes place, the parties will file a memorandum (see direction below) setting out:

- (a) whether they agree with the issues of fact and opinion to be resolved and legal issues to be decided. If you do not agree, then amendments are to be proposed;
- (b) the number of witnesses to be called (and, if relevant, their area of expertise); and
- (c) if experts are to be called then confirm their availability for expert conferencing between **22 November and 10 December**, noting days that they are unavailable.

Evidence timetable for evidence exchange

[13] Based on the information before me, I consider the proposed sequence of directions useful and I will make the first direction proposed; namely that the Regional Council file an overview of Topic B by **22 October 2021**.

[14] Parties may have different views on the proposed timetable exchange and if they do, their views are to be set out in a memorandum proposing alternative directions.

Directions

[15] I direct:

- (a) the proceedings are to be set down for a pre-hearing conference;
- (b) parties are to file a memorandum by **Wednesday 6 October 2021** if they oppose in principle the pre-hearing conference taking place in Christchurch on **Tuesday 19 October 2021**;
- (c) parties are to file a memorandum by **Wednesday 13 October 2021** setting out:
 - (i) an alternative evidence exchange timetable, giving reasons (if not in agreement with the Regional Council's proposal);
 - (ii) whether they agree with the issues of fact and opinion to be resolved and legal issues to be decided. If you do not agree, then amendments are to be proposed;
 - (iii) the number of witnesses to be called (and, if relevant, their area of expertise); and
 - (iv) if experts are to be called then confirm their availability for expert conferencing between **22 November and 10 December**, noting any days that they are unavailable.
- (d) if the South Island remains at COVID-19 Alert Level 2 at the date of the pre-hearing conference, strict social distancing, mask wearing, and sanitary cleansing is a top priority in the courtroom. Accordingly,

parties must confirm to the Registrar by **Wednesday 13 October 2021** who will be in attendance, so distancing can be managed (the latest COVID-19 level protocols are also attached). Any representative, party or support person who has not already confirmed attendance prior to the conference may risk being turned away if the court cannot safely distance participants;

- (e) the Regional Council is to file Topic B overview evidence by **Friday 22 October 2021** outlining key findings from Topic A Interim Decisions, updates to superior planning documents (e.g. NPSFM 2020), outline of other new regulations (e.g., NES Freshwater, Stock-exclusion), outline of Environment Southland's freshwater planning process, and outline of fundamental issues raised in Topic B appeals; the unresolved issues set out in Appendix B of the Regional Council's 24 September 2021 memorandum are set down for hearing, to commence on or after **Monday 14 March 2022**; and
- (f) leave is reserved for any party to be excused from attending the pre-hearing conference, should they have no concerns or comments to raise and agree to abide by any directions made.

[16] Leave is reserved for any party to apply for further (or other) directions.

Jane S.



J E Borthwick
Environment Judge

Issued: 4 October 2021

SCHEDULE

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| 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-000040 | Federated Farmers of New Zealand |
| ENV-2018-CHC-000041 | Heritage New Zealand Pouhere Taonga |
| 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 Ngāi Tahu, Hokonui Runāka, Waihopai Runāka, Te Rūnanga o Awarua & Te Rūnanga o Oraka Aparima |
| ENV-2018-CHC-000049 | Rayonier New Zealand Limited |
| ENV-2018-CHC-000050 | Royal Forest and Bird Protection Society of New Zealand Incorporated |