

**IN THE ENVIRONMENT COURT  
AT CHRISTCHURCH  
I TE KŌTI TAIAO O AOTEAROA  
KI ŌTAUTAHI**

IN THE MATTER of the Resource Management Act 1991

AND appeals under clause 14 of the First  
Schedule of the Act

BETWEEN ARATIATIA LIVESTOCK  
LIMITED

(ENV-2018-CHC-29)

(and all other appellants listed in  
the Schedule attached)

Appellants

AND SOUTHLAND REGIONAL  
COUNCIL

Respondent

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**MINUTE OF THE ENVIRONMENT COURT  
Balance of provisions in respect of which consent orders were sought  
(23 March 2022)**

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**Introduction**

[1] Further to the Minute ‘Amendments the court would approve’ dated 21 March 2022, this Minute addresses the balance of provisions in relation to which the parties have sought orders by consent.

[2] A list of the provisions is attached to this Minute and labelled “A”.



***Application for consent orders***

[3] As the Regional Council appears no longer to support some of the orders sought in respect of provisions identified in attachment A, the decision of the court will be to decline to make those orders.

***Provisions now agreed***

[4] Unless we receive advice to the contrary, all provisions listed in attachment A are disputed.

[5] To that end, with reference to attachment A, the parties are to identify provisions in relation to which they agree with the amended wording circulated by the Regional Council in its memorandum dated 22 March 2022.

***All of parties hearing***

[6] The hearing resumes tomorrow (Thursday 24 March 2022) with submissions from counsel.

[7] The interpretation of provisions is a matter of law for the court; it is not a matter of evidence.<sup>1</sup> We anticipate some parties will support the wording proposed in the various applications for consent orders. If they do, they will need to address the interpretation issues identified in the Minute dated 10 March 2022 and secondly, the submissions made by the Regional Council and its alternative wording circulated last night.

***Advisory note***

[8] Finally, by way of consequential amendment to the proposed plan, the court proposes an amendment to the Interpretation Statement attached and labelled “B”

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<sup>1</sup> *Tauranga Environmental Protection Soc Inc v Tauranga City Council* [2021] NZHC 1201 at [123].

to this Minute.

[9] This amendment is instead of the change proposed by the Regional Council to the advisory note at the beginning of the policies.

[10] While the court's amendment could be regarded as a restatement of s 67(1) of the RMA, because several policies list, without any differentiation, values and outcomes,<sup>2</sup> it is desirable to directly draw plan users' attention to the objectives and weighting they give to various outcomes.

[11] Any party opposing the consequential amendment is to advise the court.

### ***Resumption of hearing***

[12] Tomorrow, the court will canvass parties on the resumption of the hearing in April 2022 and make further timetable orders (if required).

### **Directions**

[13] The court directs by **9 am on Thursday 24 March 2022**, each party will file a memorandum reporting on whether they accept or dispute the amendments made to the provisions and set out in the Regional Council's memorandum dated 22 March 2022.<sup>3</sup>

Jane S.



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**J E Borthwick**  
**Environment Judge**

Issued: 23 March 2022

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<sup>2</sup> We have in mind Policies 20, 24, 28 and 29.

<sup>3</sup> For avoidance of doubt, the amended wording is set out in the attachment to the SRC memorandum dated 22 March 2022.

“A”

Provisions that are the subject matter of an application for consent orders but which appear now in dispute.<sup>4</sup> An asterisk indicates that one party (at least) does not agree with the amendments proposed by the Regional Council. The provisions are:

- (a) \*Policy 15A;
- (b) \*Policy 15B;
- (c) \*Policy 16A;
- (d) Policy 17;
- (e) \*Policy 17A;
- (f) Policy 20;
- (g) Policy 26A;
- (h) \*Policy 28;
- (i) Policy 30;
- (j) Policy 39 – a proposed advice note;
- (k) Rule 9;
- (l) \*Rule 13;<sup>5</sup>
- (m) \*Rule 15;
- (n) Rule 32B;
- (o) Rule 32D;
- (p) Rule 32E;
- (q) Rule 33;
- (r) Rule 33A;
- (s) \*Appendix E.

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<sup>4</sup> If we have incorrectly recorded any provision this is inadvertent, and the parties are to bring this to the court's attention.

<sup>5</sup> Rule 13 is a provision agreed following expert conferencing and as such is not the subject matter of the application for consent orders.

“B”

The court’s proposed amendment to the Interpretation Statement:

**Interpretation Statement**

All persons exercising functions and powers under this Plan and all persons who use, develop or protect resources to which this Plan applies shall recognise that:

(i) Objectives 1 and 2 are fundamental to this plan, providing an overarching statement on the management of water and land, and all objectives are to be read together and considered in that context; and

(ii) The plan embodies ki uta ki tai and upholds Te Mana o Te Wai and they are at the forefront of all discussions and decisions about water and land.

(iii) The Policies in this plan must be interpreted and applied in a manner that implements the Objectives.

### Schedule – List of appellants

ENV-2018-CHC-26	Transpower New Zealand Limited
ENV-2018-CHC-27	Fonterra Co-operative Group Limited
ENV-2018-CHC-29	Aratiatia Livestock Limited
ENV-2018-CHC-30	Wilkins Farming Co Limited
ENV-2018-CHC-31	Gore District Council & others
ENV-2018-CHC-32	DairyNZ Limited
ENV-2018-CHC-33	H W Richardson Group Limited
ENV-2018-CHC-34	Beef + Lamb New Zealand
ENV-2018-CHC-36	Director-General of Conservation
ENV-2018-CHC-37	Southland Fish and Game Council
ENV-2018-CHC-38	Meridian Energy Limited
ENV-2018-CHC-40	Federated Farmers of New Zealand (Southland Province) Inc
ENV-2018-CHC-41	Heritage New Zealand Pouhere Taonga
ENV-2018-CHC-44	Wilkins Farming Co Limited (previously Campbell's Block Limited)
ENV-2018-CHC-45	Wilkins Farming Co Limited (previously Robert Grant)
ENV-2018-CHC-46	Southwood Export Limited & Others
ENV-2018-CHC-47	Te Rūnanga o Ngāi Tahu, Hokonui Rūnaka, Waihopai Rūnaka, Te Rūnanga o Awarua & Te Rūnanga o Oraka Aparima
ENV-2018-CHC-49	Rayonier New Zealand Limited
ENV-2018-CHC-50	Royal Forest and Bird Protection Society of New Zealand Incorporated