

**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

**MINUTE OF THE ENVIRONMENT COURT
Amendments which the court would approve (2)
(25 March 2022)**

Introduction

[1] This Minute addresses provisions in relation to which consent orders have been sought, but where further amendments are proposed to the wording of certain provisions. Parties either support – or alternatively do not oppose – the



amendments being made.¹

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

[3] A separate Minute will be issued addressing provisions which were proposed to be settled by consent order but in relation to which the court is not yet satisfied that it is able to make the orders sought.

[4] As previously advised,² subject to the parties’ respecting the wording provisionally endorsed by the court, the court would defer making consent orders in respect of attachment A provisions, pending the resolution of all related policies and rules. Indeed, formal approval of these provisions could be left for the substantive decision of the court resolving the balance of the appeals.

Relationship between policies and implementing methods

[5] It occurs to us that some of the methods (rules and appendices) that we would approve implement higher order policies that are not yet resolved and if that is the case, further amendment may be warranted.

[6] The court would be assisted if the Regional Council provides a table that sets out the policies and identifies their implementing methods.³ If unsure, the Regional Council can ask the Registry for guidance as to what is required.

Amendments proposed to make provisions clear and/or enforceable

[7] Further amendments are necessary to the following provisions to address lack of clarity or inconsistent use of defined terms:

¹ Transcript dated 24 March 2022 and memoranda filed in response to Minute dated 23 March 2022.

² Minute ‘Amendments which the court would approve’ dated 21 March 2022.

³ The provision number is all that is required e.g, Policy 1 and Rule 1 etc.

- (a) Policy 26A;
- (b) Rule 9.

[8] The parties have proposed wording which we would approve.⁴

Deletion of an Advice Note

[9] In response to the court's concern over the sense (meaning) of an Advice Note to Policy 39, the Regional Council submits it makes a statement that is inconsistent with case law and proposes to delete the same.

[10] The deletion of the Advice Note being unopposed, we would approve the single amendment to Policy 39 which is to substitute 'shall' for 'should'.⁵

Amendment of section headings

[11] We approve the amendments proposed to Rules 32B and 32D as set out in the annotated pSWLP,⁶ with no amendment to the section heading being made.

[12] We approve the amendments proposed to Rule 32E, Rule 33 and Rule 33A, again as set out in the annotated pSWLP.⁷

Interpretation Statement

[13] Unopposed, the court would approve the consequential amendment to the Interpretation Statement set out below:

Interpretation Statement

All persons exercising functions and powers under this Plan and all persons

⁴ SRC memorandum dated 22 March 2022 and in relation to Rule 9 specifically, Director-General of Conservation memorandum dated 23 March 2022.

⁵ SRC memorandum dated 22 March 2022, Policy 39.

⁶ Filed 14 March 2022.

⁷ Filed 14 March 2022.

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.

[14] As proposed by the Regional Council, the court would approve the consequential deletion of the advisory at p 30 of the annotated pSWLP⁸ that reads:

The Policies of this Plan implement the Objectives and must be read in their entirety and considered together.

Directions

[15] The court directs that by **Friday 1 April 2022**, the Regional Council, having conferred with the parties, is to report on whether consent orders are to issue, or whether the parties' preference is for the court's approval to be recorded and orders made in its final decision having heard the disputed provisions case.

Jane S.



J E Borthwick
Environment Judge

Issued: 25 March 2022

⁸ Filed 14 March 2022.

“A”

Unless indicated by an asterisk, the amendments set out in the Regional Council memorandum dated 22 March 2022 are approved.

- (a) Policy 26A;
- (b) Policy 39 plus a proposed advice note;
- (c) Rule 9;
- (d) Rule 32B;
- (e) Rule 32D;
- (f) Rule 32E;
- (g) Rule 33;
- (h) Rule 33A; and
- (i) consequential amendment to the Interpretation Statement and consequential deletion of an advisory to the proposed plan policies.

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