

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

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)
 ... (continued on last page)
 Appellants
AND SOUTHLAND REGIONAL COUNCIL
 Respondent

**MINUTE OF THE ENVIRONMENT COURT
(29 November 2018)**

Introduction

[1] This Minute is released for the purpose of case management.

[2] We have considered the memoranda filed in response to the court's Minute dated 5 November 2018.¹

Case management

[3] Counsel ought to be aware that the court is not seized of their clients' interests and, given the large number of appeals and parties interested in the same, the court expects parties will be proactive in the litigation of their interests.



¹ Memoranda were filed by the Regional Council dated 14 November 2018; Horticulture New Zealand dated 15 November 2018 and Ngā Rūnanga dated 9 November 2018.

[4] Indeed, the smooth and efficient running of these proceedings requires that counsel respond to the case management directions sought by the other parties, in order that all views are captured in Regional Council's reporting memoranda.

Wetlands

[5] In response to Ngā Rūnanga's memorandum dated 26 September 2018, the court set down the definitions of "wetland" and "natural wetland" in the Topic A hearing. In its most recent memorandum, the term "regionally significant wetland" has been added to the mix.

[6] We are told the definitions are relevant to objectives 14 and 17 (within Topic A) and Rule 74. Ngā Rūnanga has appealed Rule 74 but not the objectives. Horticulture New Zealand has appealed two of the definitions, and Ngā Rūnanga is an interested party in that appeal.

[7] Ngā Rūnanga remains of the view that it is important to determine what the relevant objectives are seeking to protect, but that the definition of the terms could be a matter left for the Topic B hearing.

[8] In summary, there appears to be two matters at issue for Ngā Rūnanga:

- (a) do the relevant objectives use the terms consistently and (I add) deliberately, having regard to their definitions;
- (b) what is the meaning of "wetland" and "natural wetland"?²

[9] The court expects the Regional Council will answer the first issue affirmatively i.e. the Regional Land and Water Plan does use terms consistently and deliberately. In saying that, it is our experience of planning instruments that this is not always the case. For the reasons outlined in Ngā Rūnanga's memorandum,³ we remain of the view that, at least in the broader sense, the meaning of "wetlands", "natural wetland" and now "regionally significant wetlands" is to be addressed in Topic A.

² In its memorandum dated 16 November 2018, Horticulture NZ advises that it has not appealed the definition or identification of "regionally significant wetland".

³ Dated 9 November 2018.



[10] It may be that the content of the definitions is the subject of the Topic B hearing, mediation or expert caucusing.

[11] To advance matters, we will direct Ngā Rūnanga to confirm that its interests are those outlined at paragraph [8] above. Subject to what Ngā Rūnanga says, it is then for the Regional Council (or its planning witness) to respond to the issue identified in [8(a)]. If the matter has been addressed in the Initial Planning Statement, the Regional Council will identify the relevant paragraphs.

[12] Once this information is to hand the court will make directions in relation to paragraph [8(b)], and whether the definitions are heard as part of Topic A or B or referred into the court's alternative dispute resolution process.

Directions

[13] We make the following directions:

- (a) by **Wednesday 5 December 2018**, Ngā Rūnanga is to confirm, amending if required, the issues identified in paragraph [8] above;
- (b) if Ngā Rūnanga is seeking confirmation that the terms are being used in a consistent and deliberate manner, then by **Wednesday 12 December 2018** the Regional Council will file a memorandum/affidavit providing a succinct but comprehensive response to the same; and
- (c) leave is granted for the parties to seek further or amended directions.



J J M Hassan
Environment Judge

J E Borthwick
Environment Judge

Issued: 29 November 2018

List of appellants

ENV-2018-CHC-27	Fonterra Co-Operative Group Ltd
ENV-2018-CHC-28	Horticulture New Zealand
ENV-2018-CHC-29	Aratiatia Livestock Limited
ENV-2018-CHC-30	Wilkins Farming Co
ENV-2018-CHC-31	Gore District Council, Southland District Council and Invercargill City Council
ENV-2018-CHC-32	DairyNZ Limited
ENV-2018-CHC-33	H W Richardson Group Limited
ENV-2018-CHC-34 & 35	Beef + Lamb New Zealand
ENV-2018-CHC-36	Director-General of Conservation
ENV-2018-CHC-37	Southland Fish & Game Council
ENV-2018-CHC-38	Meridian Energy Limited
ENV-2018-CHC-39	Alliance Group Limited
ENV-2018-CHC-40	Federated Farmers of New Zealand
ENV-2018-CHC-41	Heritage New Zealand Pouhere Taonga
ENV-2018-CHC-42	Stoney Creek Station Limited
ENV-2018-CHC-43	The Terraces Limited
ENV-2018-CHC-44	Campbell's Block Limited
ENV-2018-CHC-45	Robert Grant
ENV-2018-CHC-46	Southwood Export Limited, Southland Plantation Forest Company of NZ, Southwood Export Limited
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-48	Peter Chartres
ENV-2018-CHC-49	Rayonier New Zealand Limited
ENV-2018-CHC-50	Royal Forest and Bird Protection Society of NZ Inc

