

**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-029)

(appellants listed on the attached  
Schedule)

Appellants

AND SOUTHLAND REGIONAL  
COUNCIL

Respondent

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**Commissioner Minute in respect of expert conferencing  
(10 November 2021)**

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[1] The purpose of this Minute is to assist parties in preparing for expert conferencing directed<sup>1</sup> in advance of the hearings on Topic B issues.

[2] I have been referred the memoranda of counsel for the Southland Regional Council (SRC) dated 5 November and 9 November 2021. These memoranda have been helpful in providing the details required to move forward and prepare for the

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<sup>1</sup> Record of PHC issued 22 October 2021.



conferencing.

### **Remote conferencing**

[3] I note that all parties' experts can attend conferencing via remote AVL, although there is a preference (at least by one party) to use a hybrid system. Unfortunately, from my experience, for a hybrid conference to operate efficiently it requires at least the Commissioner, the Council experts and a scribe, as well as some of the parties, attending together in person. Given current travel restrictions and uncertainties associated with COVID management, I cannot travel out of Auckland.

[4] There is potential to have another Commissioner located elsewhere to assist. However, because of the nature of these appeals and my involvement so far, it makes sense to have some continuity. The court's resourcing also needs to be considered in setting out the best way to move forward. Thus, given the strong support for remote attendance, I confirm that the conferencing will be held entirely by the remote AVL method. Participants in the same town or workplace may wish to gather in the one place to attend, but they will need appropriate technology to do that.

[5] To that end, the court's Registry will set up the conference dates and times. Either the court's Registry or the Council can set up the AVL meeting and I will leave it to the Council to communicate with the Registry on the most convenient method.

[6] The conference date and time will be communicated to each participant via an email with a calendar invite providing the link to the conference. It is important that the email and telephone number of each participant in each conference is provided to the court. This information must be provided as soon as possible please.

[7] The court uses Microsoft TEAMS and it is my recollection the Council uses the ZOOM platform. It is not necessary to have this software on your computer to participate; the link will provide what is required. For any queries around this please ensure the participating experts have the contact details of the Christchurch Registry to discuss in advance of the conferencing.

### **Schedule**

[8] The SRC were granted<sup>2</sup> an extension to file their final proposed schedule of conferencing by 9 November 2021. The Council advise that despite further liaising with parties there are still unavailability issues and have endeavoured to accommodate this in the proposed schedule. Subsequently, counsel for Forest and Bird and Fish and Game advised their planner now is available on 9 – 10 December for the latter planning conference and therefore requests conferencing be changed to these dates.<sup>3</sup>

[9] Accordingly, the dates, area of expertise of witnesses and numbers attending each conference, are confirmed as below:

<b>Expert</b>	<b>Number of witnesses</b>	<b>Circulation of agenda</b>	<b>Date of conference</b>
Planning	15	Tue 16 Nov	17 – 19 Nov 9 – 10 Dec
Farm Systems	13	Thurs 18 Nov	22 Nov 6 Dec
Science / Water Quality	8	Mon 22 Nov	24 – 26 Nov 3 Dec
Forestry	6	Wed 24 Nov	29 Nov

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<sup>2</sup> Per email directions dated 8 November 2021.

<sup>3</sup> Memorandum of counsel dated 10 November 2021.

Ecology	6	Fri 26 Nov	1 Dec
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[10] Mr Maw has set out a timetable for the circulation of agendas for each of the conferences, generally providing three working days prior to each conference. I have added those dates to the table above.

### **Preparation**

[11] Preparation for each conference is crucial to its success. To this end I ask the parties' experts in the preparation of each agenda, and for the conference discussion, to:

- (a) agree on a format for a template which the scribe (to be provided by the Council – thank you), will use as the basis for the joint witness statement for each conference;
- (b) set out clearly each issue the particular expertise is called upon to address under the heading of each matter/question that the court is being asked to resolve;
- (c) the options for a provision which are then being pursued to resolve the issue;
- (d) the disputed facts/opinions which lead to the provision preferred; the basis for that dispute, ie what is being relied upon for that opinion;
- (e) while it is usual for the planners to set out all the regulatory documents they rely upon it would be helpful to analyse what is specifically relevant to the provision in dispute and which particular provisions (eg relevant higher policy in the Plan, specific policy(s) or clause(s) of a Policy Statement, Regulation, National Standard) that specifically guides the provision in dispute;
- (f) I also ask the experts to give thought to any specific supporting information which is relied upon, and which may be appropriately appended or referenced to/in the joint statement. Also, any method

that might be used to summarise evidence to clarify information for the court. The objective being to keep information focused and efficiently succinct to assist the court in understanding the expert opinion.

[12] Lastly, conferencing at the best of times can be intense and tiring for the participants, and this is particularly so with AVL. In finalising the timetable, I note that more than one day is generally allocated to each conference which will be helpful in finalising the documentation. I am also happy with the spacing between conferences. This will allow the parties to communicate any information (within the court Practice Note guidelines), that has come out of a previous conference which may have a bearing on the conference to follow.

[13] I note that there are some conferences which have an added day which is not sequential to the start of conference. I assume that is due to availability. My preference is to have that day as a back-up day to finalise the documentation, rather than extend conferencing and find things being “relitigated” (for want of a better description). I ask witnesses to remember they will have their evidence to rely on.

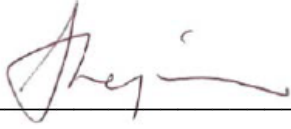
[14] I assume the planners have two conferences; one to inform the other witness conferences (to assist setting the answers/information from other expert evidence they rely on)<sup>4</sup> and one at the end to finalise their positions. I expect there will be a statement produced at each of those conferences.

[15] If there are any further instructions or information parties feel they need, please contact the Registry. There are guidelines for remote attendance which may also be helpful. These can be obtained from the Registry.

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<sup>4</sup> SRC memorandum 9 November 2021 at [8].

[16] Thank you all for your cooperation in moving forward.



**A C E Leijnen**  
**Environment Commissioner**

Issued: 10 November 2021



### 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-35	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
ENV-2018-CHC-41	Heritage New Zealand Pouhere Taonga
ENV-2018-CHC-44	Campbell's Block Limited
ENV-2018-CHC-45	Robert Grant
ENV-2018-CHC-46	Southwood Export Limited & Others
ENV-2018-CHC-47	Te Rūnanga o Ngāi Tahu, Hokonui Runāka, Waihopai Runāka, 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