

**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**  
**Fifth Interim Decision**  
**(10 February 2023)**

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**Introduction**

[1] The purpose of this Minute is to set down the proceedings for a prehearing conference and to make further directions in relation to that event.

[2] The court has considered the reporting memorandum dated 9 February 2023 and the three notices of appeal against the fifth Interim Decision.

[3] Subject to one amendment, the directions proposed at paragraph [50] of



the reporting memorandum will be made. The amendment will be that parties not supporting the Regional Council's responses in relation to the paragraphs noted in the direction are to notify the court and be ready to propose directions to resolve the same.

[4] The proceeding is set down for a judicial conference at **9.30am on Tuesday 14 February 2023**.

[5] Attendance in person is preferred, with all counsel residing in Christchurch directed to attend.

[6] AVL facilities are available. If attending by AVL contact the Registry by **12pm Monday 13 February 2023** to arrange a link test.

#### **Appendix N: FEMP**

##### *Resolution of provisions prior to sense check*

[7] The parties hold different views as to whether one or more of the provisions should be settled prior to a sense check of Appendix N:FEMP. For those provisions which parties say should settle, the parties are to clarify at the conference whether they are requesting the court issue its final decision and direct the Regional Council to amend its proposed plan prior to the sense check.

[8] The Regional Council says certain provisions cannot be *advanced* prior to the determination of the High Court appeals. Those provision are Rules 20, 20A, 20B, 24, 25 and 35B. Evidently there is a range of views held in relation to this matter. It is notable, however, that except for Dairy Interests, all parties support the court version of the provisions.

[9] Presently, the court has no difficulty in principle reserving its decision on Rule 24 pending the High Court's decision.

[10] Except for Rule 24, it is the court's tentative view that a decision directing the Regional Council to amend the above provisions in its proposed plan is not impacted by the appeals in the High Court. The land use rules would become operative, including the requirement that all farming activities prepare and implement a FEMP.

[11] At the pre-hearing conference parties are to explain their views on settling the individual provisions prior to the sense check.

[12] I will direct all parties holding the view that the court cannot *advance* one or more of the provisions prior to the High Court's decision, to file a memorandum succinctly giving reasons for those views. For present purposes I am assuming 'advance' means the court directing the Regional Council to amend the proposed plan.

### Scope

[13] Any party disagreeing with the Regional Council's scope assessment of various provisions as set out in the reporting memorandum, is to identify the relevant provision.

### Leave to be excused from attendance

[14] I grant leave to be excused from attendance at the judicial conference to Transpower, Mr English and Southwood Export Ltd.

### Directions

[15] I direct parties to file a memorandum by **4pm Monday 13 February 2023** indicating if they disagree with the Council's position with respect to scope or responses to questions/directions at paragraphs 231, 279, 313, 314, 375, 397-399, and 455 of the fifth Interim Decision. Further directions will be made at the conference.

[16] Memorandum in relation to paragraph [12] above, is directed to be filed by **4pm Monday 13 February 2023.**

[17] A judicial conference will be convened at **9.30am Tuesday 1 March 2023.**

[18] Finally I direct, the Regional Council having conferred with the parties to report back to the court by **Friday, 17 February 2023** on the following matters:

- (a) the timing of the map production;
- (b) the preparation of a brief, review completion date, and the appointment of a suitable facilitator for the Appendix N sense check; and
- (c) the position of Ngā Rūnanga with respect to Schedule X.

Jane S.



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**J E Borthwick**  
Environment Judge

Issued: 10 February 2023

### 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

