

**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
Case management directions
(7 June 2023)**

[1] The purpose of this Minute is to confirm directions given at the conclusion of evidence last week.

Rule 78 - scope

[2] Submissions on the scope of the court to grant the various relief sought in relation to Rule 78 are to be filed today, **Wednesday 7 June 2023**. The court will endeavour to make the scope decision on the papers. However, if a hearing is required the registry will liaise with the parties over a suitable date. The hearing



will be via AVL.

[3] **Five working days** after the court releases its scope decision, the parties are to propose any further directions sought in relation to Rule 78 to bring this matter to a conclusion. Such directions may allow for the planners to conference and produce a Joint Witness Statement that records their views on a finally preferred wording of Rule 78 consistent with the court's scope decision and any direction given therein.

DIN/DRP

[4] In the fifth interim decision the court held that where water quality falls below the national bottom line or minimum acceptable state, water quality is or is highly likely to be degraded by human activities.¹ For the reasons set out, the court declined to make findings on the threshold value for DIN/DRP.

[5] At the decision's release date, the NPS-FM (2020) provided that the Regional Council is to set appropriate instream concentrations and exceedance criteria for DIN/DRP.² Being part of the NOF process the concentrations and exceedance criteria had yet to be determined.

[6] We understand TN and TP are the measures of all nitrogen and phosphorus (respectively) and include DIN/DRP. We are unclear, however, why DIN/DRP has been mapped in addition to TN and TP. Respecting the court's findings in the fifth interim decision, supplementary evidence may be filed on the topic of DIN/DRP. The purpose of the evidence is to explain the reason for inclusion of the DIN/DRP maps in Schedule X and whether it implements the said decision.

[7] The Regional Council and Dairy Interests have indicated that they may file

¹ [2022] NZEnvC 265 at [77].

² NPS-FM (2020) at [3.13]. The NPS-FM (2023) amends cl 3.13 to refer to nitrogen and phosphorus. DIN/DRP are no longer referred to.

supplementary evidence. It is our hope that any supplementary evidence may be admitted by consent. Parties are to confer and propose a filing date no later than **Friday 16 June 2023**.

[8] If the evidence is not admitted by consent, the proceeding will be set down for a half day fixture and the evidence may be tested in the usual way.

[9] **Five working days** after supplementary technical evidence is filed, parties are to file submissions on the inclusion of the DIN/DRP maps. To provide parties the opportunity to reflect supplementary technical evidence on this topic, submissions filed last week may be recalled and new submissions filed. Again, the court will endeavour to decide on the papers or if not, will hear from counsel/witnesses in person.

Jane S.

J E Borthwick
Environment Judge

Issued: 7 June 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