

IN THE HIGH COURT OF NEW ZEALAND  
CHRISTCHURCH REGISTRY

I TE KŌTI MATUA O AOTEAROA  
ŌTAUTAHU ROHE

CIV-2017-409-000496

BETWEEN	WAITAKI IRRIGATORS COLLECTIVE LIMITED Appellant
AND	CANTERBURY REGIONAL COUNCIL Respondent
AND	BARRHILL CHERTSEY IRRIGATION LIMITED First Interested Party
AND	COMBINED CANTERBURY PROVINCES, FEDERATED FARMERS OF NEW ZEALAND INCORPORATED Second Interested Party
AND	DAIRY HOLDINGS LIMITED Third Interested Party
AND	ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NEW ZEALAND INCORPORATED Fourth Interested Party

I, **Shona Southwick**, Deputy Registrar of the High Court of New Zealand at Christchurch **DO HEREBY CERTIFY** that upon the filing of a joint memorandum of counsel recording settlement of the appeal on 9 July 2018, that was dealt with on the papers before the Honourable Justice Dunningham on the 14<sup>th</sup> day of August 2018 **ON THE APPEAL** against the decision of the Canterbury Regional Council on Plan Change 5 to the Canterbury Land and Water Regional Plan

**IT WAS ADJUDGED**

THAT the Respondent is to amend Plan Change 5 to the Canterbury Land and Water Regional Plan as set out in Appendix A.

**DATED at Christchurch this 14<sup>th</sup> day of August 2018**



A handwritten signature in blue ink, appearing to be "S. Southwick", written in a cursive style.

**DEPUTY REGISTRAR**

**S. Southwick**

To:

P A Steven QC and B Irving, Counsel for Waitaki Irrigators Collective Limited  
(Appellant)

P A C Maw and K J Wyss, Counsel for Canterbury Regional Council (Respondent)

B G Williams, Counsel for Dairy Holdings Limited and Barrhill Chertsey Irrigation Limited  
(Interested Parties)

P R Gardner, Counsel for Combined Canterbury Provinces, Federated Farmers of New  
Zealand Incorporated (Interested Party)

P D Anderson, Counsel for Royal Forest and Bird Protection Society of New Zealand  
Incorporated (Interested Party)

## APPENDIX A

### PROPOSED AMENDMENTS TO PLAN CHANGE 5 TO RESOLVE APPEALS

The amendments sought by the parties to the provisions of Plan Change 5 to the Canterbury Land and Water Regional Plan are shown below. Amendments are shown with insertions in underline and deletions in ~~strikethrough~~.

#### *General rules*

##### **15B.5.8**

Despite Rules 15B.5.9 to 15B.5.9C, 15B.5.12 to 15B.5.17 and 15B.5.21 to 15B.5.35 the use of land for a farming activity in the Waitaki where either:

- (a) the nitrogen loss from the farming activity is being managed under a resource consent that is held by an irrigation scheme or principal water supplier and the permit contains conditions which limit the maximum rate or amount of nitrogen that may be leached from the subject land;

or

- (b) the land is subject to a water permit that authorises the use of water for irrigation; and
  - (i) the permit was granted prior to 18 February 2016; and
  - (ii) the permit has commenced as specified in s116 of the RMA; and
  - (iii) the permit is subject to conditions that specify the maximum rate of nitrogen (kg/ha/yr) or amount of nitrogen (kg/yr) that may be leached from the land; and
  - (iv) the water permit is subject to conditions which require the preparation and implementation of a plan to mitigate the effects of the loss of nutrients to water;

or

- (c) the land is within the Valley and Tributaries Zone, Hakataramea Flat Zone, Hakataramea Hill Zone, Hakataramea River Zone or the Greater Waikāhahi Zone and is subject to a water permit that authorises the use of water for irrigation; and
  - (i) the permit was granted between 1 November 2009 and ~~13 February~~ 20 December 2016; and



- (ii) the permit has commenced as specified in s116 of the RMA; and
- (iii) the permit is subject to conditions which require the preparation and implementation of a plan to mitigate the effects of the loss of nutrients to water and that plan specifies auditing requirements; and
- (iv) ~~the conditions of the permit have not been changed since 13 February 2016~~ any change to the condition of a water permit granted before 20 December 2016 does not increase the volume or rate of water abstracted, or authorise a change in the use of the water, or increase the scale, intensity or character of the activity for which the water is used; and
- (v) the property is registered in the Farm Portal by 1 July 2018 and information about the farming activity and the property is reviewed and updated by the property owner or their agent every 36 months thereafter, or whenever a material change in the land use associated with the farming activity occurs; or whenever any boundary of the property is changed

is a permitted activity.

#### 15B.5.9

Despite Rules 15B.5.9A to 15B.5.9C, 15B.5.12 to 15B.5.17 and 15B.5.21 to 15B.5.35, the use of land for a farming activity within the Waitaki, on a property greater than 10 hectares in area, is a controlled activity, provided the following conditions are met:

1. A Farm Environment Plan has been prepared for the property in accordance with Part A of Schedule 7 and is submitted with the application for resource consent; and
2. The land is subject to a water permit that authorises the use of water for irrigation and:
  - (a) that water permit replaces an existing water permit that:
    - (i) was granted prior to 18 February 2016; or
    - (ii) was granted between 18 February 2016 and 20 December 2016, where the land is within the Valley and Tributaries



Zone, Hakataramea Flat Zone, Hakataramea Hill Zone,  
Hakataramea River Zone or the Greater Waikāhahi Zone;  
and

- (b) is for the same activity in character, intensity and scale as that authorised under the previous water permit; and
  - (c) includes conditions that limit the maximum rate (kg/ha/yr) or amount (kg/yr) of nitrogen that may be leached from the subject land to a rate or amount that does not exceed that authorised by the water permit that was replaced; and
3. The Farm Environment Plan and nutrient budget submitted with the application for resource consent has been prepared or reviewed by an Accredited Farm Consultant.

*The CRC reserves control over the following matters:*

- 1. The commencement date for the first audit of the Farm Environment Plan; and
- 2. The content, quality and accuracy of the nutrient budgets provided with the application for resource consent; and
- 3. The timing of any actions or good management practices proposed to achieve the objectives and targets described in Schedule 7; and
- 4. Methods that limit the nitrogen loss calculation for the farming activity to a rate not exceeding the lesser of the Good Management Practice Loss Rate or the maximum rate of nitrogen (kg/ha/yr) that may be leached from the land; and
- 5. Methods to avoid or mitigate adverse effects of the activity on surface and groundwater quality and sources of drinking water; and
- 6. Methods to address any non-compliance identified as a result of a Farm Environment Plan audit, including the timing of subsequent audits; and
- 7. Reporting of estimated nutrient losses and audit results of the Farm Environment Plan to the Canterbury Regional Council.

