

excavation rules, the court has not had a chance to consider all the appeals, topics and issues. Nor does it have reassurance from the Council that there are no other appeals that could be impacted by the proposed changes.

[4] Accordingly, as will be the usual approach, this consent memorandum will remain on file at least pending the PHC, when the court expects to have a better understanding of the issues at large. Furthermore, for this consent memorandum (as would be the case for others), the court requires the Council's formal advice as to whether there are any related appeals on the same topic/rule/policy/issue and, if so, whether:

- (a) the consent documentation should remain on file pending any related appeals/topics; or
- (b) the consent documentation can be progressed for issuing without any impact on any other appeal or topic.

Processes for withdrawal or partial withdrawal of appeals

[5] It is timely to now address arrangements concerning withdrawal of appeals or appeal points, now that the court has received the first memorandum giving notice of withdrawal of a point of an appeal (a joint memorandum for Te Atiawa o Te Waka-a-Maui Trust and the Council dated 6 July 2020).²

[6] As a minor point of detail, that joint memorandum seeks leave to withdraw the appeal point. Parties should note there is no need to seek such leave. Rather, all that is required is the giving of notice to the court, the Council and all s274 parties. Such notice should be by memorandum filed with the court and identifying the s274 parties who have an interest in the appeal or point of appeal and have been served notice of the withdrawal. Where the positions of the other s274 parties is known concerning the withdrawal and of parties as to costs, that should be stated in the memorandum.

[7] When that process of ensuring other parties are notified of withdrawal is followed, the court will allow s274 parties three working days to inform the court whether there is any objection to the withdrawal or issues as to costs (and the Council the same period of

² In addition, the court received an email from Carey Cudby dated 10 July 2020 confirming Save the Wairau River Inc no longer has an interest in the Colonial Vineyard appeal. The file is noted accordingly.



time on any issues as to costs). If nothing is received in that time, the court will assume there are no issues and the withdrawal will be put on file. For any response(s) received, a timetable will be set. Alternatively, it is also helpful for the notice of withdrawal to be signed by all parties confirming they have no objection. However, the most important thing is to ensure the memorandum clearly records the relevant parties and the fact they have been notified.

[8] Directions are made accordingly. For clarity, in view of the joint memorandum as to partial withdrawal of the Te Atiawa o Te Waka-a-Maui Trust appeal (i.e. for its Point 1), a separate direction is made for that matter. As I am satisfied there is no prejudice to parties with this withdrawal, given the early procedural stage at which it has been notified, I have not made directions for any matters as to costs. These will lie where they fall in all cases.

Waivers

[9] The Registrar has referred to me the following:

- (a) the s274 notice dated 15 June 2020 and subsequent application for waiver of time on behalf of Landcorp Farming Ltd to join three MEP appeals, specifically:
 - ENV-2020-CHC-58 Federated Farmers of New Zealand;
 - ENV-2020-CHC-67 Environmental Defence Society; and
 - ENV-2020-CHC-71 Horticulture New Zealand.

- (b) s274 notices and application for waiver of time dated 17 June 2020 on behalf of Yachting New Zealand Inc applying to join:
 - ENV-2020-CHC-45 Aroma (NZ) Ltd and Aroma Aquaculture Ltd;
 - ENV-2020-CHC-74 Marine Farming Association Inc. and Aquaculture New Zealand;
 - ENV-2020-CHC-55 Clearwater Mussels Ltd and Talley's Group Ltd;
 - ENV-2020-CHC-51 The New Zealand King Salmon Co Ltd;
 - ENV-2020-CHC-46 Te Runanga o Kaikorua and Te Runanga o Ngai Tahu; and



- ENV-2020-CHC-70 Te Runanga o Ngati Kuia Trust.

[10] The Landcorp Farming Ltd waiver is sought on the grounds that it received incorrect advice about the timeframe for joining (or misheard the due date). The Yachting New Zealand Inc notices were filed out of time due to the incorrect diarising of the filing date and subsequent communication/instructions received.

[11] While both parties should have been more careful with the dates (since the periods were extended via Minute and uploaded to the Council's website for review), I consider the waivers can be granted as they are only 6-7 working days out of time and unlikely to prejudice any party since the appeals have not progressed through any formal mediation or hearing.

Directions

[12] Being satisfied that no one will be unduly prejudiced in granting the waivers sought/accepting Landcorp Farming Ltd and Yachting New Zealand Inc's s274 notices late (and no opposition being received), I hereby make an order under s281(1)(iia) waiving the requirement that those s274 notices be filed within the 20 working days directed.³

[13] Notice to the court of withdrawal of any appeal or part of an appeal is to be by memorandum served on the Council and relevant s274 parties. Within 3 working days of the date the memorandum as to withdrawal or partial withdrawal is so served:

- (a) any s274 party who objects to any withdrawal must give notice of that objection by memorandum;
- (b) any party seeking costs must give notice of that intention

so that a timetable can be set.

[14] If any s274 party to Te Atiawa o Te Waka-a-Maui Trust appeal with an interest in Point 1 of that appeal opposes the withdrawal of Point 1 under s274(5) then they must file a memorandum on those matters **by Friday 24 July 2020**.

³ Minute dated 15 April 2020 at [9](2).



[15] Leave is reserved for any party to apply for further (or other) directions.



J J M Hassan
Environment Judge

Issued: 21 July 2020



Schedule – List of Appellants

ENV-2020-CHC-21 Dominion Salt
ENV-2020-CHC-30 Timberlink
ENV-2020-CHC-31 G J Gardner
ENV-2020-CHC-32 Talley's Group Limited
ENV-2020-CHC-33 Friends of Nelson
ENV-2020-CHC-34 Omaka Valley
ENV-2020-CHC-35 Fish & Game
ENV-2020-CHC-36 Heritage
ENV-2020-CHC-37 Chorus/Spark
ENV-2020-CHC-38 Okiwi Bay Ratepayers
ENV-2020-CHC-39 Te Rūnanga a Rangitāne o Wairau
ENV-2020-CHC-40 Haro Partnership
ENV-2020-CHC-41 KPF Investments Limited & United Fisheries Limited
ENV-2020-CHC-42 Minister of Conservation
ENV-2020-CHC-43 Te Atiawa o Te Waka-a-Maui Trust
ENV-2020-CHC-44 Beleve Ltd, RJ Davidson Family Trust & Treble Tree Holdings Ltd
ENV-2020-CHC-45 Aroma (N.Z.) Limited and Aroma Aquaculture Limited
ENV-2020-CHC-46 Te Rūnanga o Kaikōura and Te Rūnanga o Ngāi Tahu
ENV-2020-CHC-47 Goulding Trustees Limited and Shellfish Marine Farms Limited
ENV-2020-CHC-48 McGuinness Institute
ENV-2020-CHC-49 Port Marlborough NZ
ENV-2020-CHC-50 Trustpower Limited
ENV-2020-CHC-51 The New Zealand King Salmon Co. Limited
ENV-2020-CHC-52 Matthew Burroughs Broughan
ENV-2020-CHC-53 Cochran
ENV-2020-CHC-54 OneFortyOne
ENV-2020-CHC-55 Clearwater Mussels Limited and Talley's Group Limited
ENV-2020-CHC-56 New Zealand Transport Agency
ENV-2020-CHC-57 KiwiRail Holdings Limited
ENV-2020-CHC-58 Federated Farmers of New Zealand
ENV-2020-CHC-59 Colonial Vineyard Limited
ENV-2020-CHC-60 Sanford Ltd
ENV-2020-CHC-61 Villa Maria Estate Limited



ENV-2020-CHC-62 Oldham & Others
ENV-2020-CHC-63 Apex Marine Farm Limited
ENV-2020-CHC-64 Forest & Bird
ENV-2020-CHC-65 Levide Capital Ltd
ENV-2020-CHC-66 Brentwood Vineyards Ltd
ENV-2020-CHC-67 Environmental Defence Society
ENV-2020-CHC-68 Transpower New Zealand Limited
ENV-2020-CHC-69 Jeffrey Val Meachen
ENV-2020-CHC-70 Te Runanga o Ngati Kuia Trust
ENV-2020-CHC-71 Horticulture New Zealand
ENV-2020-CHC-72 Oil Companies
ENV-2020-CHC-73 AJ King Family Trust and SA King Family Trust
ENV-2020-CHC-74 Marine Farming Association Inc and Aquaculture New Zealand
ENV-2020-CHC-75 Delegat Limited
ENV-2020-CHC-76 Minister of Defence
ENV-2020-CHC-77 Just Mussels Ltd, Tawhitinui Greenshell Ltd & Waimana Marine Ltd
ENV-2020-CHC-78 East Bay Conservation
ENV-2020-CHC-79 Rebecca Light

