

**BEFORE THE ENVIRONMENT COURT  
AT AUCKLAND**

**I MUA I TE KŌTI TAIAO O AOTEAROA  
TĀMAKI MAKAURAU ROHE**

**ENV-2023-**

**UNDER** the Resource Management Act 1991 (RMA)

**IN THE MATTER** of an appeal under section 120 of the RMA

**BETWEEN** **I&P FARMING LIMITED, TE AWAHOHONU FOREST  
TRUST, SPRINGHILL DAIRIES PARTNERSHIP,  
PLANTATION ROAD DAIRIES, PAPAWAI  
PARTNERSHIP, TUKI TUKI AWA LIMITED &  
BUCHANAN TRUST NO. 2**

**Appellants**

**AND** **HAWKE'S BAY REGIONAL COUNCIL**

**Respondent**

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**NOTICE OF APPEAL**

**3 May 2023**

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**Solicitor acting:**

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**Counsel instructed:**

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**TO:** The Registrar  
Environment Court  
Auckland

**I&P Farming Limited, Te Awahohonu Forest Trust, Springhill Dairies Partnership, Plantation Road Dairies, Papawai Partnership, Tuki Tuki Awa Limited and the Buchanan Trust No.2 (Appellants)** appeal against the decision of the Hawke's Bay Regional Council (**Council**) refusing resource consents to take and use groundwater from the Ruataniwha aquifer in Central Hawke's Bay (**Decision**).<sup>1</sup>

1. The Appellants are the applicants.
2. The Appellants received notice of the decision on 27 February 2023.
3. The Decision was made by a Hearings Panel appointed by the Council to hear and determine the applications (**Panel**).
4. The Appellants have a right to appeal the Decision under section 120(1)(a) of the Resource Management Act 1991 (**RMA**). The Decision to which this appeal relates is not one of those activities excluded by section 120(1A) or (1B) of that Act.
5. The resource affected is the Ruataniwha aquifer in Central Hawke's Bay and associated waterbodies.
6. The Appellants are not trade competitors for the purposes of section 308D of the RMA.
7. The Appellants are appealing the whole of the Decision.

#### **REASONS FOR THE APPEAL**

8. The Decision wrongly concluded that:
  - (a) The potential adverse effects of the proposals could not be appropriately avoided, remedied or mitigated.
  - (b) Cultural values would be further degraded by the proposals.

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<sup>1</sup> Purunui Trust also applied for resource consent to take and use groundwater from the Ruataniwha aquifer but is not appealing the Council's decision.

- (c) Drawdown interference effects on shallow wells and effects on stream flow may result in significant adverse effects, which cannot in all cases be appropriately avoided, remedied or mitigated.
  - (d) The efficacy of the proposed augmentation regime is not adequately demonstrated in all water courses.
  - (e) The proposals will have adverse effects on invertebrate and fish communities in rivers and streams within the Ruataniwha Basin, which will not be substantially mitigated by the proposed augmentation.
  - (f) The proposals would have adverse effects on other current users of shallow groundwater, including for irrigation, stock water and domestic supply.
  - (g) The proposals are contrary to provisions in the National Policy Statement for Freshwater Management 2020.
  - (h) The proposals are not consistent with the objectives and policies of the Hawke's Bay Regional Policy Statement or the Regional Resource Management Plan.
9. Further, the Decision:
- (a) Gave insufficient weight to evidence that demonstrated that water quality outcomes may improve as a result of the proposals.
  - (b) Severely underrated the positive effects of the proposals, including the economic benefits and the positive effects of transitioning land to more efficient and productive uses including modern horticulture activities.
  - (c) Overstated the impact of the proposals on shallow groundwater bores, including bores that are inefficient and unsafe.
  - (d) Contains irreconcilable inconsistencies, including that despite finding that the Ruataniwha aquifer is not overallocated, the Decision declined consent on grounds of water allocation issues.
  - (e) Failed to make findings on issues where there was uncontested evidence in favour of the applications.

10. The Decision fails to promote the sustainable management of natural and physical resources, or the efficient use and development of resources.
11. The Decision fails to give effect to the purpose of the RMA.
12. For all of these reasons, the Panel erred in deciding to decline the applications under section 104 of the RMA.

**RELIEF SOUGHT**

13. The Appellants seek the following relief:
  - (a) that the Appellants' applications for resource consent are granted; and
  - (b) costs of and incidental to the Appeal.

**ANNEXURES**

14. The following documents are attached to this notice:
  - (a) A copy of the applications (**Annexure A**);<sup>2</sup>
  - (b) A copy of the Decision (**Annexure B**); and
  - (c) A list of names and addresses of persons to be served with a copy of this notice (**Annexure C**).

**DATED** this 3<sup>rd</sup> day of May 2023



**B J Matheson / M J Doesburg**

Counsel for the Appellants

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<sup>2</sup> This includes the seven original applications and the updated Assessment of Environmental Effects that brought all of the applications together.

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## **Advice to recipients of copy of notice of appeal**

### *How to become party to proceedings*

If you wish to become a party to the appeal, you must,—

- (a) within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (b) within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

### *Advice*

If you have any questions about this notice, contact the Environment Court in Auckland.

**Annexure A: Resource Consent Applications**