



ENVIRONMENT COURT OF NEW ZEALAND

4 November 2016

Due to pressures of time, the case-managing Judge has not prepared a formal Minute, but issues **directions** via this communication as a Minute of the Court nevertheless.

The Judge has considered the Council's report memorandum of 7 October, and a spreadsheet report about all PAUP appeals to the Environment Court, lodged today. At the Court's direction, the spreadsheet has comments signalling overlap with some of the High Court appeals (where the EC proceedings will mostly need to be placed on hold), and suggestions about cases that could appropriately go to mediation or otherwise.

He notes that the council has already endeavoured to communicate with numbers of parties about its comments on the spreadsheet, but may not have reached everyone.

The Judge invites all parties to consider the spreadsheet, from the following points of view:

1. Accuracy of the base information recorded.
2. Accuracy of analysis of where it is said there is overlap of EC proceedings with HC proceedings; particular regard should be had to the Minute of Justice Whata of 17 October.
3. Any response concerning council's recommendations for mediation. In this regard, the Judge will take silence of parties as agreement with the council recommendations, and does not need to receive comments. He also comments that he is not keen on the provision of time for "off-line" negotiations before mediation, as in his experience such time is usually wasted and lost. Any party support for that process will need to be itself supported by succinct party comment about exactly WHAT should be capable of being achieved by negotiation during the balance of this year. The Judge may or may not then be persuaded about that.

Comments may be lodged **by 5:00pm on Wednesday 16 November**, after which the Court will be setting many cases down for mediation.

Parties are to co-operate strongly with the Court's mediation manager and mediators over using dates allocated for mediation. There are far too many parties to allow people simply to say "not available", or to offer some weak or inappropriate excuse. Acceptable reasons for non-availability will largely be confined to serious health issues, and conflict with Court hearing obligations (EC, HC, and above). That is, appointments for mediation are to be treated like Court hearing fixtures for priority.

Parties should understand that where mediation does not work (whether in full or in part), hearings will commence very shortly thereafter, and timetables for preparation for an early hearing will be put before a Judge for urgent approval.