

**IN THE ENVIRONMENT COURT OF NEW ZEALAND  
CHRISTCHURCH REGISTRY**

**I TE KŌTI TAIAO O AOTEAROA  
ŌTAUTAHI ROHE**

**ENV-2020-CHC-127**

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

**IN THE MATTER** of the Water Permits Plan Change - Plan Change 7, being part of a proposal of national significance directed by the Minister for the Environment to be referred to the Environment Court under section 142(2)(b) of the RMA

**AND**

**IN THE MATTER** of an application under section 149T of the RMA

**BETWEEN** **OTAGO REGIONAL COUNCIL**

**Applicant**

---

**JOINT MEMORANDUM OF COUNSEL IN RELATION TO AGENDA FOR  
EXPERT CONFERENCING ON SCHEDULE 10A.4  
10 March 2021**

---

Judicial Officer: Judge Borthwick

---

Applicant's Solicitor  
PO Box 4341 CHRISTCHURCH 8140  
DX WX11179  
Tel +64 3 379 7622  
Fax +64 379 2467

**WYNNWILLIAMS**

Solicitor: P A C Maw / M A Mehlhopt  
(philip.maw@wynnwilliams.co.nz /  
michelle.mehlhopt@wynnwilliams.co.nz)

**MAY IT PLEASE THE COURT:**

- 1 The purpose of this Memorandum of Counsel is to file an agenda for expert conferencing of the primary sector technical experts on Schedule 10A.4 of Plan Change 7 and advise of attendees and availability of witnesses for conferencing.
- 2 Counsel propose the following agenda:
  - (a) What is the purpose of the method as the experts understand it, and what are the outcomes of the method as the experts understand it?
  - (b) What is a data gap?
  - (c) What data gaps need to be filled?
  - (d) How should the data gaps be filled? (including whether the gaps should be dealt with in Schedule 10A.4 or as part of the rule?)
  - (e) Where an exceedance is identified, how should it be treated? Does it require an objective response, subjective response or both?
  - (f) What are the legitimate issues with water meter data that can result in exceedances?
  - (g) Should the maximum rate of take used in any water year be used? or the average maximum rate of take?
  - (h) Should the maximum daily volume in any water year be used? Or the average maximum daily volume?
  - (i) Should the maximum monthly volume in any water year be used? Or the average maximum monthly volume?
  - (j) Should the maximum annual volume be used? Or the average maximum annual volume?
  - (k) What period of data should be analysed?
  - (l) Should the Aqualinc Guidelines be referred to in Schedule 10A.4?
  - (m) What margin of error should be applied?
  - (n) How should Schedule 10A.4 deal with authorised limits (volumes) when none are specified on the permit being replaced?
  - (o) What is the purpose of a daily limit? And should there be one?

- (p) Should water meter data be used at all?
- (q) Is there a material difference in daily, monthly, and annual volumes calculated if data that is identified as an exceedance outside the margin of error is rounded down to the consent maximum and left in the data record?
- (r) What role does the guidance document produced by ORC have in relation to Schedule 10A.4, when not referred to in Schedule 10A.4?
- (s) What is an inaccurate record? What should be done with inaccurate records?
- (t) What scenarios should the method apply to?

### **Witnesses attending and availability**

- 3 The table below sets out the expert witnesses to attend conferencing for the primary sector parties and the dates that they are not available for conferencing:


<b>Witness</b>	<b>Party</b>	<b>Dates not available for conferencing</b>
Simon Wilson	Otago Regional Council	18 March  Preference to avoid week of 29 March if possible.
Sean Leslie	Otago Regional Council	12, 19 March
Christina Bright	Landpro Limited	Preference to avoid 15 to 18 March and week of 29 March if possible.
Ian McIndoe	Otago Water Resource User Group	
Matthew Hickey	Otago Water Resources User Group	
Anthony Davoren	McArthur Ridge Vineyard Ltd, Mount	16 to 25 March  7, 8, 12-14 April

	Dunstan Estates Ltd, Strath Clyde Water Ltd	
--	--	--

**Venue**

The parties' preferred venue for expert conferencing is Dunedin.

Dated this 10<sup>th</sup> day of March 2021

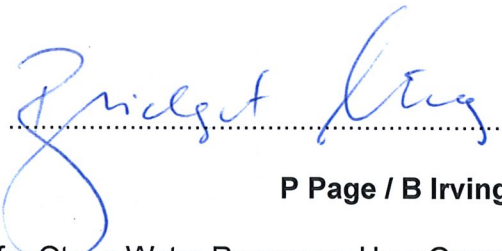


**P A C Maw / M A Mehlhopt**

Counsel for Otago Regional Council

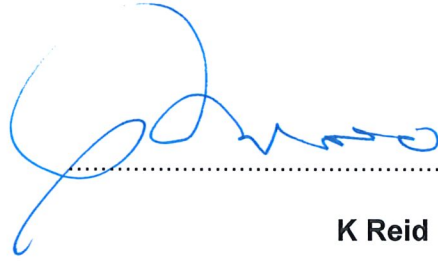
.....  
**C Bright / C Perkins**

Representative for Landpro Limited



**P Page / B Irving**

Counsel for Otago Water Resources User Group

A handwritten signature in blue ink, appearing to be 'K Reid', is written over a horizontal dotted line. The signature is fluid and cursive.

**K Reid**

Counsel for McArthur Ridge Vineyard Ltd,  
Mount Dunstan Estates Ltd, Strath Clyde Water Ltd

