

**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**

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

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Judicial Officer: Judge Borthwick

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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 hydro-electric power generation and community water supply technical and planning experts on Schedule 10A.4 of Plan Change 7 as it relates to those uses and the planning response to the same. The Memorandum of Counsel also advises of attendees for conferencing.
- 2 It is understood that conferencing is to take place after 1pm on Thursday 18 March and on Friday 19 March (if required). Given that Trustpower will be presenting its case on Friday the 19<sup>th</sup> of March, it is recommended that the hydro conferencing commence on Thursday afternoon and that conferencing on community water supplies commences at the conclusion of the hydro conferencing.

**Hydro conferencing**

- 3 Counsel propose the following draft agenda for hydro-electric power generation (hydro):
  - (a) What is the purpose of Schedule 10A.4 as the experts understand it, and what are the outcomes of the Schedule 10A.4 as the experts understand it as it relates to hydro?
  - (b) How do the four Trustpower water races operate and under what hydrological conditions do the four Trustpower water races achieve their maximum consented takes? What is the consequence of those matters when applying Schedule 10A.4?
  - (c) What is a representative water assessment period incorporating multiple wet, average and dry years, and considering operational outages?
  - (d) What period of data should be analysed for hydro? (for example, is a longer hydrological record required for hydro?)
  - (e) Should synthetic records be used to derive a longer hydrological record?
  - (f) What is the purpose of daily and monthly limits?
  - (g) Is a daily limit appropriate for hydro?
  - (h) Is a monthly limit appropriate for hydro?

- (i) Is an annual volume limit more appropriate and practicable, taking in account factors such as the remoteness and manual operation of the four Trustpower water races?
- (j) Should there be exceptions to the imposition of daily, monthly and annual limits for hydro if catchment inflows exceed, for example, the median (50 percentile) flow?
- (k) Should instantaneous maxima recorded during freshes and floods be rounded down to the consented maxima and left in the data record?
- (l) Are the effects of climate change anticipated within the life of PC7? If so, does Schedule 10A.4 adequately capture the effects of climate change? If not, should this be provided for in the Schedule and if so, how?
- (m) Is a separate Schedule and/or rules specific to hydro necessary to respond to the particular requirements of hydro?
- (n) What changes to PC7 are required to incorporate changes recommended by the experts in relation to the Schedule?

4 The witnesses attending the expert conferencing for hydro are as follows:

<b>Witness</b>	<b>Party</b>
Simon Wilson (Manager Regulatory Data and Systems at ORC)	Otago Regional Council
Sean Leslie (Systems and Information Analyst)	Otago Regional Council
Roddy Henderson (Hydrology)	Otago Regional Council
Tom de Pelsemaeker (Planning)	Otago Regional Council
Paul Mitchell (Hydrology)	Trustpower

Stephanie Styles (Planning)	Trustpower
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- 5 We understand that the hydro conferencing may require Trustpower's witnesses to be re-scheduled for later in the Hearing. Counsel for Trustpower does not oppose this, noting that the Court has expressed a preference for conferencing to take priority.

### **Community Water Supplies**

- 6 Counsel propose the following draft agenda for community water supplies:
- (a) What is the purpose of Schedule 10A.4 as the experts understand it? and what are the outcomes of the Schedule 10A.4 as the experts understand it as it relates to community water supplies?
  - (b) What period of data should be analysed for community water supplies?
  - (c) What is a representative water assessment period incorporating multiple wet, average and dry years, and considering operational outages?
  - (d) What volume limits are appropriate with respect to community water supplies (daily, monthly and/or annual)?
  - (e) Should instantaneous maxima recorded be rounded down to the consented maxima and left in the data record?
  - (f) Are the effects of climate change anticipated within the life of PC7? If so, does Schedule 10A.4 adequately capture the effects of climate change? If not, should this be provided for in the Schedule and if so, how?
  - (g) Does Schedule 10A.4 provide flexibility to consider growth in demand for community water supply? If not, should this be provided for in the Schedule, and if so, how?
  - (h) Is a separate Schedule and/or rules specific to community water supplies necessary to respond to the particular requirements of community water supplies?

- (i) What changes to PC7 are required to incorporate changes recommended by the experts in relation to the Schedule?

7 The table below sets out the witnesses to attend the expert conferencing on community water supplies:

<b>Witness</b>	<b>Party</b>
Simon Wilson (Manager Regulatory Data and Systems at ORC)	Otago Regional Council
Sean Leslie (Systems and Information Analyst)	Otago Regional Council
Roddy Henderson (Hydrology)	Otago Regional Council
Tom de Pelsemaeker (Planning)	Otago Regional Council
Matthew Twose (Planning)	Territorial authorities
Tom Heller (Hydrology)	Territorial authorities

### **Venue**

8 The parties' preferred venue for expert conferencing is Dunedin. Otago Regional Council will provide a scribe for the conferencing.

### **Steps following conferencing**

9 A Joint Witness Statement is to be filed with the Court within 3 working days of the conclusion of conferencing. Once the Joint Witness Statements from the hydro and community water supply conferencing are provided, together with the Joint Witness Statement from the primary sector conferencing, parties will be in a position to confirm what further steps, if any, are required in terms of further conferencing.

### **Involvement of WISE Response in conferencing**

10 The parties have not had an opportunity to discuss this Memorandum with Mr McTavish on behalf of WISE Response. However, parties

confirm their position that a representative from WISE Response is not required for the hydro and community water supplies conferencing.

Dated this 12<sup>th</sup> day of March 2021



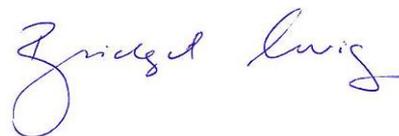
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**P A C Maw / M A Mehlhopt**

Counsel for Otago Regional Council



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**J R Welsh**

Counsel for Trustpower Limited



**P Page / B Irving**

Counsel for the Territorial Authorities