

**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 FOR OTAGO REGIONAL COUNCIL IN
RELATION TO EXPERT CONFERENCING ON SCHEDULE 10A.4
16 March 2021**

Judicial Officer: Judge Borthwick

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MAY IT PLEASE THE COURT:

- 1 The purpose of this Memorandum of Counsel is to consolidate and update the previous Memoranda lodged regarding expert conferencing and address arrangements for the conferencing of planning experts and how a reconciliation exercise for all technical conferencing will occur.

Timetable for conferencing

- 2 The following sets out the proposed timetable for expert conferencing:

| Conferencing session | Date |
|--|------------------------------------|
| Primary sector | Wednesday 24 and Thursday 25 March |
| Hydroelectricity generation (Hydro) | Tuesday 30 March |
| Community Water Supplies | Wednesday 31 March |
| Planning | Wednesday 7 and Thursday 8 April |

- 3 The attendees and draft agenda for each conferencing session are set out in Attachments 1 to 4.
- 4 It is expected that a Joint Witness Statement will be completed at the commencement of each conferencing session, or at a later date directed by Commissioner Dunlop. The Joint Witness Statement would be filed with Commissioner Dunlop and circulated to the parties.
- 5 In relation to the reconciliation of outputs of each of the conferencing sessions, Counsel proposes the following:
- (a) The planners participating in the Hydro and Community Water Supplies conferencing attend the Primary sector conferencing in the afternoon of Thursday 25 March for a 'handover' of the Joint Witness Statement. The handover would include an explanation of the position reached in the Joint Witness Statement and the reasons for the position.
 - (b) Nominated representatives from the primary sector, hydro and community water supplies conferencing session attend the start of the planning conferencing session to introduce the joint witness statement.

- (c) Given the overlap of participants between the hydro and community water supplies sessions, Counsel does not consider it necessary to have a 'handover' at the end of the hydro session. However, the Joint Witness Statement would be provided to participants of the community water supplies session.

Dated this 15th day of March 2021



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P A C Maw / M A Mehlhopt

Counsel for Otago Regional Council

ATTACHMENT 1 – PRIMARY SECTOR CONFERENCING**Wednesday 24 and Thursday 25 March 2021****Attendees**

| Witness | Party |
|--|--|
| Simon Wilson (Manager Regulatory Data and Systems at ORC) | Otago Regional Council |
| Sean Leslie (Systems and Information Analyst) | Otago Regional Council |
| Christina Bright | Landpro Limited |
| Ian McIndoe | Otago Water Resource User Group, Horticulture New Zealand |
| Matthew Hickey | Otago Water Resources User Group |
| Anthony Davoren | McArthur Ridge Vineyard Ltd, Mount Dunstan Estates Ltd, Strath Clyde Water Ltd |
| Dugald MacTavish | WISE Response |
| Scribe: Sarah Davidson, Consents officer from Otago Regional Council Venue to be determined, but Galloway Cook Allan boardroom has been offered as a venue. | |

Draft agenda

- 1 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?
- 2 What is a data gap?
- 3 What data gaps need to be filled?
- 4 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?)
- 5 Where an exceedance is identified, how should it be treated? Does it require an objective response, subjective response or both?

- 6 What are the legitimate issues with water meter data that can result in exceedances?
- 7 Should the maximum rate of take used in any water year be used? or the average maximum rate of take?
- 8 Should the maximum daily volume in any water year be used? Or the average maximum daily volume?
- 9 Should the maximum monthly volume in any water year be used? Or the average maximum monthly volume?
- 10 Should the maximum annual volume be used? Or the average maximum annual volume?
- 11 What period of data should be analysed?
- 12 Should the Aqualinc Guidelines be referred to in Schedule 10A.4?
- 13 What margin of error should be applied?
- 14 How should Schedule 10A.4 deal with authorised limits (volumes) when none are specified on the permit being replaced?
- 15 What is the purpose of a daily limit? And should there be one?
- 16 Should water meter data be used at all?
- 17 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?
- 18 What role does the guidance document produced by ORC have in relation to Schedule 10A.4, when not referred to in Schedule 10A.4?
- 19 What is an inaccurate record? What should be done with inaccurate records?
- 20 What scenarios should the method apply to?

ATTACHMENT 2 – HYDRO CONFERENCING

Tuesday 30 March 2021

Attendees

| Witness | Party |
|--|------------------------|
| 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 |
| Scribe: Sarah Davidson, Consents officer from Otago Regional Council | |
| Venue to be determined, but Galloway Cook Allan boardroom has been offered as a venue. | |

Draft agenda

- 1 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?
- 2 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?
- 3 What is a representative water assessment period incorporating multiple wet, average and dry years, and considering operational outages?
- 4 What period of data should be analysed for hydro? (for example, is a longer hydrological record required for hydro?)
- 5 Should synthetic records be used to derive a longer hydrological record?
- 6 What is the purpose of daily and monthly limits?

- 7 Is a daily limit appropriate for hydro?
- 8 Is a monthly limit appropriate for hydro?
- 9 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?
- 10 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?
- 11 Should instantaneous maxima recorded during freshes and floods be rounded down to the consented maxima and left in the data record?
- 12 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?
- 13 Is a separate Schedule and/or rules specific to hydro necessary to respond to the particular requirements of hydro?
- 14 What changes to PC7 are required to incorporate changes recommended by the experts in relation to the Schedule?

ATTACHMENT 3 – COMMUNITY WATER SUPPLIES CONFERENCING

Wednesday 31 March 2021

Attendees

| Witness | Party |
|---|-------------------------|
| 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 |
| <p>Scribe: Sarah Davidson, Consents officer from Otago Regional Council</p> <p>Venue to be determined, but Galloway Cook Allan boardroom has been offered as a venue.</p> | |

Draft agenda

- 1 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?
- 2 What period of data should be analysed for hydro?
- 3 What is a representative water assessment period incorporating multiple wet, average and dry years, and considering operational outages?
- 4 What volume limits are appropriate with respect to community water supplies (daily, monthly and/or annual)?
- 5 Should instantaneous maxima recorded be rounded down to the consented maxima and left in the data record?

- 6 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?
- 7 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?
- 8 Is a separate Schedule and/or rules specific to community water supplies necessary to respond to the particular requirements of community water supplies?
- 9 What changes to PC7 are required to incorporate changes recommended by the experts in relation to the Schedule?

ATTACHMENT 4 – PLANNING CONFERENCING**Wednesday 7 and Thursday 8 April 2021****Attendees**

| Witness | Party |
|--|----------------------------------|
| Tom de Pelsemaeker | Otago Regional Council |
| Sally Dicey | Otago Water Resource Users Group |
| Matthew Twose | Territorial authorities |
| Stephanie Styles | Trustpower |
| Claire Perkins | Landpro |
| Sandra McIntyre | Nga Runanga |
| Tim Ensor | Minister for the Environment |
| Ben Farrell | Fish & Game |
| Kim Reilly (To be confirmed) | Federated Farmers |
| Vance Hodson | Horticulture New Zealand |
| Helen Marr (To be confirmed) | Beef and Lamb |
| Nominated representatives appointed from primary sector, hydro and community water supply conferencing to attend at start of session to present Joint Witness Statement. | |
| Venue and scribe from Otago Regional Council to be confirmed. | |

Draft agenda

(The draft agenda will be confirmed following provision of the Joint Witness Statements from the technical conferencing sessions)

- 1 Presentation of Joint Witness Statements from primary sector, hydro and community water supply and primary sector conferencing.
- 2 What changes to PC7 are required to incorporate changes recommended by the experts in relation to the Schedule?