

**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

(Continued next page)

**MEMORANDUM OF COUNSEL FOR THE OTAGO REGIONAL COUNCIL
SEEKING DIRECTIONS ON TIMEFRAMES FOR FILING PLANNING
RESPONSE, LEGAL SUBMISSIONS ON RIGHTS OF PRIORITY AND ORC
EVIDENCE IN REPLY
9 June 2021**

Judicial Officer: Judge Borthwick

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BETWEEN

OTAGO REGIONAL COUNCIL

Applicant

MAY IT PLEASE THE COURT:

- 1 This Memorandum of Counsel is filed on behalf of the Otago Regional Council (**Council** or **ORC**) in response to the Court's directions set out in its Minutes dated 31 May 2021¹ and 2 June 2021².

Counsel conference and planning response to expiry of deemed permits

- 2 Counsel are meeting with Dr Somerville QC on Thursday, 10 June 2021 to discuss alternative solutions (options) that respond to the expiry of deemed permits. The outputs of that meeting will help inform the further expert conferencing of planning experts on this matter.
- 3 The planning experts are due to file their planning response to the expiry of deemed permits by Friday, 11 June 2021. However, the first opportunity for the planning experts to meet following the meeting of counsel is Friday, 18 June 2021. Therefore, leave is sought to extend the timeframe for filing the planning response to Tuesday, 22 June 2021. This will enable the planning experts some time following the meeting on 18 June to finalise the Joint Witness Statement and any other outputs from the conferencing.
- 4 Counsel also seek an extension of time to file legal submissions in response to Dr Somerville's Memorandum. Full legal submissions are due to be filed on Friday 11 June 2021. However, counsel consider that an additional 2 working days would be beneficial to enable time to incorporate any outcome of the meeting of counsel.

Planning response on stranded assets, Objective 10A1.1, Schedule 10A.4 and related provisions

- 5 Planning experts are also due to file their planning response on the topic of stranded assets, together with any further amendment required to Objective 10A1.1 and the formal documentation of amendments to Schedule 10A.4 and related provisions agreed to during the empanelment of witnesses, by Friday, 11 June 2021.
- 6 Planning experts met with Deputy Commissioner Dunlop on Friday, 4 June 2021 to discuss the topics referred to in paragraph [5] above and are progressing this work. The planning experts and Deputy

¹ Minute of Environment Court, Plan Change 7 Final Directions dated 31 May 2021.

² Minute of Environment Court, Conference of Counsel (Priorities) dated 2 June 2021.

Commissioner Dunlop have asked counsel to seek leave to file the planning response on these topics together with the planning response to the expiry of deemed permits.

Evidence in Reply of Mr De Pelsemaeker

- 7 As a result of the extension of timeframes set out above, the Council seeks a corresponding extension of time for the filing of Mr De Pelsemaeker's evidence in reply so that he has time to consider the planning responses referred to above and incorporate these into his evidence.
- 8 Mr de Pelsemaeker's evidence in reply is due to be filed on Friday, 18 June 2021. The Council requests an extension of time to Friday, 25 June 2021.
- 9 Counsel will liaise with Mr Cooper regarding the hearing schedule. However, it is anticipated that the first two days of hearing in the week of 28 June 2021 are likely to be taken up by the presentation of Southern Lakes Holdings Ltd, the presentation of Joint Witness Statements and legal submissions in reply to Dr Somerville QC on the topic of deemed permits and rights of priority. Therefore, it is likely that Mr De Pelsemaeker would not be presenting at the hearing until Thursday, 1 July 2021.

Directions sought

- 10 Counsel respectfully seeks the following amended directions:
- (a) Legal submissions in reply to Dr Somerville QC on the topic of deemed permits and rights of priority to be filed by **Tuesday, 15 June 2021;**
 - (b) Planning response to the expiry of deemed permits, including amendments supported by reasons for their adoption and a section 32 evaluation report to be filed by **Tuesday, 22 June 2021;**
 - (c) Report by Otago Regional Council consenting and regulatory officers on the efficacy of amendments proposed by the planning experts having tested their application with reference to (at least) two waterbodies to be filed by **Thursday, 24 June 2021;**

- (d) Planning response to the issue of stranded assets, including any amendments supported by reasons for their adoption and a section 32 evaluation report to be filed by **Tuesday, 22 June 2021**;
 - (e) Any further amendments required to Objective 10A1.1 and the formal documentation of amendments to Schedule 10A.4 and other provisions discussed during the empanelment of witnesses on Wednesday 26 May 2021, by **Tuesday, 22 June 2021**; and
 - (f) Evidence in reply of Mr De Pelsemaeker to be filed by **Friday, 25 June 2021**.
- 11 Counsel has circulated the proposed timeframes set out in paragraph [10] to parties' counsel for comment and has received no objection or request for amendment.

Dated this 9th day of June 2021



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P A C Maw / M A Mehlhopt

Counsel for Otago Regional Council