

**BEFORE THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY**

ENV:2020-CHC-127

In the Matter

of the Resource
Management Act 1991

And

a notice of motion under
section 149T(2) to decide
proposed Plan Change 7 to
the Regional Plan: Water
for Otago.

Between

**OTAGO REGIONAL
COUNCIL**

Applicant

And

**THE TERRITORAL
AUTHORITIES**

Section 274 Party

**JOINT MEMORANDUM OF COUNSEL REGARDING COURT MINUTE
DATED 9 AUGUST 2021**

**GALLAWAY COOK ALLAN
LAWYERS
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MEMORANDUM OF COUNSEL

May it please the Court:

1. Counsel refers to Court Minute dated 23 July 2021. The parties have conferred and sought input from their respective witnesses as directed by the Court. **Attached at appendix 1** is a tracked changed version of the proposed rules with the parties' suggested changes including comments that explain the reasons for those changes and the views of the parties.
2. The most significant change relates to the matters of discretion associated with water conservation measures and the water management plan. The parties were concerned that paragraphs (e) and (f) proposed by the Court created potential vires issues because they may require a third party to do something and or further resource consents to be obtained. As such the parties consider that those measures are matters more appropriately addressed in the water management plan. The parties have proposed alternative drafting to provide greater clarity and direction on contents of the water management plan in relation to those matters.
3. There are also some minor additions made for clarity.

Scope

4. Parties have considered matters of scope further. We do not consider that the rule proposed by the Court presents any new scope matters that have not already been traversed by Counsel and witnesses previously. In particular, supplementary evidence of Mr Twose dated 12 May 2021 or the Closing Legal Submissions of Counsel for the Territorial Authorities. In light of that the parties refer the Court back to those documents for further detail should the Court require it.
5. As the Court's proposed rule relates to replacement consents only and not new activities, the Otago Regional Council is satisfied that there is scope within the submissions of the Territorial Authorities to make the changes attached as Appendix 1.

Date: 9 August 2021

A handwritten signature in blue ink, appearing to read "Bridget Irving". The signature is fluid and cursive, with the first name being more prominent.

B Irving

Counsel for the Territorial Authorities

A handwritten signature in blue ink, appearing to read "M Mehlhopt". The signature is cursive and somewhat stylized.

M Mehlhopt

Counsel for the Otago Regional Council

A handwritten signature in blue ink, appearing to read "R Dixon". The signature is cursive and includes a distinct flourish at the end.

R Dixon

Counsel for the Minister for the Environment