

**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

**MEMORANDUM OF COUNSEL ON BEHALF OF OTAGO REGIONAL
COUNCIL SEEKING CLARIFICATION AS TO AMENDMENTS PROPOSED IN
ANNEXURE 8: PLAN CHANGE 7 PROVISIONS
27 October 2021**

Judicial Officer: Judge Borthwick

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MAY IT PLEASE THE COURT:

- 1 In its interim decision dated 22 October 2021, the Court directed that any party may file a memorandum seeking clarification as to an amendment proposed in Annexure 8: Plan Change 7 Provisions.
- 2 The purpose of this memorandum is to seek clarification of amendments of a typographical nature.
- 3 In bringing these matters to the attention of the Court counsel doesn't wish to unnecessarily trouble the Court and notes that the Council could in the alternative make corrections under Clause 16(2) of Schedule 1 of the RMA.

Policy 10A.2.3

- 4 Policy 10A.2.3 includes a clause '(x)'. The Council wishes to clarify whether clause '(x)' should be clause '(a)'.

10A.3.1.1 entry condition (iii)

- 5 Entry condition (iii) of Rule 10A.3.1.1 includes a clause (aa) relating to stranded assets. The Council wishes to clarify if clause '(aa)' should be clause '(a)'. Clause (iii)(aa) is also referred to in matter of control (x).

10A.3.1.1 matter of control (x)

- 6 Rule 10A.3.1.1 contains a matter of control (x) relating to stranded assets. The Council wishes to clarify if clause (x) should be clause '(aa)' or clause '(b)' with the remaining matters of control renumbered accordingly.

10A.3.1A.1 entry condition (ii)

- 7 Entry condition (ii) of Rule 10A.3.1A states:

- (ii) Where the activity does not meet (iv) and (vi) of Rule 10A.3.1.1 a water meter for the take has been installed, or an exemption under the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 from water metering has been granted; and

The Council will restrict its discretion to the following matters:

...

- 8 The Council wishes to clarify whether the '; and' at the end of the entry condition should be replaced with a full stop.

10A.3.1A matter of discretion (d)(i)(ia) and (ib)

- 9 Rule 10A.3.1A contains matters of discretion (a)(ii)(aa) and (bb) and (d)(i)(ia) and (ib). The Council wishes to clarify whether matter of discretion (d)(i)(ia) and (ib) should be (d)(i)(aa) and (bb) for consistency.

Rule 10A.3.2.1

- 10 Rule 10A.3.2.1 provides that an activity:

that does not meet any one more of the conditions of:

- (i) Rule 10A.3.1.1;
- (ii) Rule 10A.3.1A.1;
- (iii) Rule 10A.3.1B.1

is a **non-complying** activity.

- 11 The Council wishes to clarify whether the reference to any one or more conditions of Rule 10A.3.1.1 should be to Rule 10A.3.1.1(i), (ii), (iii), (v), (vii) and (viii) because if conditions (iv) and (vi) are not met then the activity may be a restricted discretionary activity provided the conditions in Rule 10A.3.1A.1 are met.

Dated this 27th day of October 2021



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P A C Maw / M A Mehlhopt

Counsel for Otago Regional Council