

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

IN THE MATTER of the Resource Management Act 1991

AND of a notice of motion under section 149T(2) to decide proposed Plan Change 8: Water for Otago (referred to the Environment Court by the Minister for the Environment under s142(2)(b) of the Act)

BETWEEN OTAGO REGIONAL COUNCIL

(ENV-2020-CHC-128)

Applicant

**MINUTE OF THE ENVIRONMENT COURT
PLAN CHANGE 8
(4 November 2021)**

Introduction

[1] This Minute is released for the purpose of case management in light of the upcoming hearing next week.

[2] The court has received all the evidence from the parties on PC8, noting in particular, ORC's planning and regulatory evidence of Dalina Lee, Felicity Boyd and Kirsten Strauss.

[3] I wish to advise parties that the Commissioners and I will have questions of the witnesses in relation to the discharge policies and rules in part A, and in issuing this Minute we would like to afford these witnesses opportunity to reflect on the questions before the hearing.

ORC PC8 - MINUTE 4 NOVEMBER 2021



[4] We preface those questions, by observing that in broad terms, the objective of PC8 provisions is to improve the management of specific activities likely to be adversely affecting water quality, while the new land and water plan is prepared that gives full effect to the NPS-FM 2020 (on water quality).

[5] In that regard, there is some commonality in the objective of PC8 with that of PC7, which is a short-term measure pending preparation of the LWRP to give full effect to the NPS-FM (on water quantity).

[6] Given the commonality and in light of the court's decision on PC7, ORC's planning and regulatory witnesses are to reflect on the effectiveness of a proposed new Policy 7.D.6 and its reference to matters to be considered, where a consent is sought for the discharge of effluent in the context of the reference to "... the measures proposed to reduce nitrogen discharged over the term of a resource consent ...".

[7] Following on from that, the court notes the proposal to allow the discharge consent to be granted for a maximum term of 10 years, but only in relation to discretionary activity consents authorised in accordance with Rule 12.C.3.2. If a 10-year consent was granted to an applicant who was required to apply for resource consent three years after PC8 becomes operative, in accordance with Proposed Rule 12.C.1.4, potentially the consent term could run until 2035.

[8] If there are no practical measures available to measure reduction in levels of nitrogen over that 10-year term, or the reduction to be achieved is less than required through the LWRP, there will be a significant delay in the giving effect to the water quality standards that are expected to apply once the NPS-FM requirements are given full effect through the LWRP.

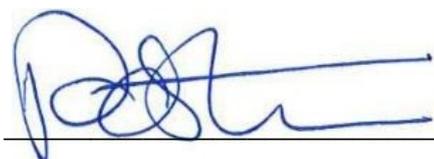
[9] This plan is expected to be notified (and have legal effect) long before a 10-year consent term expires. We will require evidence on how these matters are intended to be addressed.

[10] What policy, if any, is intended to apply to the duration of restricted discretionary activity consents granted in accordance with proposed new Rule 12.C.2.5? Are these consents anticipated to have a longer duration than 10 years? What number of consents are likely to be involved (relative to those made under Rule 12.C.3.2)?

[11] What is the rationale for new Policy 7.D.7 insofar as it deals with the management of the application of animal effluent to land and the selection of the matters in the new restricted discretionary rule? Why are there differences from the approach in new Policy 7.D.6? What is the relevance of Policy 7.D.5 to the new restricted discretionary activity applications?

[12] A number of other important questions arise, including:

- (a) what information is to be provided at the time of application on the quantity and quality of the proposed discharge at the time PC 8 was notified? How is this intended to inform the application of the policy and rule framework?
- (b) to what extent will PC8 contribute to meeting the requirements of the NPS-FM and the Proposed Otago Regional Policy Statement 2021 to maintain or enhance water quality on an interim basis, if at all, particularly in over-allocated catchments?
- (c) how does ORC intend to assess reductions in nitrogen that will be achieved; by reliance on Overseer or some other method? Clarification is required.



P A Steven
Environment Judge



Issued: 4 November 2021