

**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 1 to the Regional Plan: Waste for Otago and 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

Before: Environment Judge Steven

Held: in Christchurch on 8 December 2021 at 9 am

In Attendance: L de Latour for the Applicant
P Williams for Director-General of Conservation
R Giles for the Otago Fish and Game Council and the Central South Island Fish and Game Council
M Garbett for Dunedin City Council
S McIntyre for Kāi Tahu ki Otago
B Gresson for Willowridge Developments Limited, and Vivian and Espie Limited
N Buxeda for RCL Henley Downs Limited
R Ashton for Remarkables Park Limited
B Watts for Queenstown Lakes District Council
P Page for Dunedin International Airport Limited
B Irving for Big Stone Forests Limited
R Zwaan for Royal Forest and Bird Protection Society of New Zealand Incorporated

RECORD OF TELEPHONE CONFERENCE



Introduction

[1] Environment Court facilitated mediation was held on PC8 Part G and Part A of the Urban Provisions on 1-2 November 2021. At the conclusion of the mediation, the applicant agreed to file a memorandum by 26 November 2021 reporting on the outcomes of the mediation.

[2] The memorandum of counsel on behalf of the applicant dated 26 November 2021 advised that Part A is settled but Part G is only settled in part, as there is an earthworks dispute regarding the applicableness of Rules 14.5.1.1 and 14.5.2.1 in the Queenstown Lakes District. The memorandum also proposed timetabling directions for evidence exchange in relation to Part G.

[3] Counsel submitted that a telephone conference should be convened to discuss the evidence timetable and to what extent a hearing on the Part A discharge policies is required.

[4] I subsequently directed that a telephone conference be set down for 8 December 2021 at 9 am.

[5] On 2 December 2021 counsel for the applicant filed a memorandum providing an update on PC8 Part H and PC1 Chapter 7 (Landfills). The memorandum advised that as a result of the mediation, agreement had been reached between the parties in attendance at mediation in relation to all of the Part H and Chapter 7 topics and relevant provisions referred to mediation.

[6] Counsel submitted that as a telephone conference was already scheduled for the PC8 Urban Provisions, the Part H and Chapter 7 topics could be discussed then as well. I agreed with this approach and subsequently amended the telephone conference directions to include the additional topics.

Telephone conference

[7] During the telephone conference, I reviewed the proposed timetabling directions of the 26 November 2021 memorandum, and canvassed the availability of all parties for a hearing in the week of 21 March 2022. I expressed a willingness to deal with the matters that have been settled on the papers. I would, however, reserve the ability to request a formal proof hearing once all evidence supporting the agreed changes (in particular, the regulatory evidence) has been received. I would also reserve the opportunity to question the provisions at the hearing if required.

[8] No party had any issue with the hearing date, however, Ms Williams, counsel for the Director-General of Conservation, advised that she would be in another hearing but would instruct an agent.

Evidence exchange timetable proposed by applicant

[9] As mentioned, the memorandum of 26 November 2021 proposed timetabling dates for evidence and replies, culminating with the Council and s274 party replies by 25 March 2022. However, this would extend beyond the hearing date of 21 March 2022.

[10] In order to maintain that date and mitigate delays, I recommended the proposed dates be amended and those changes were discussed and agreement to a final timetable to the satisfaction of all parties was eventually reached.

Part H plan architecture

[11] During the conference, I expressed the need for the Part H plan architecture provision to give entire context to the provisions amended by the plan change. This will assist the court to understand how all the rules and policies work together; specifically, the nationally and regionally important infrastructure.

[12] Kāi Tahu ki Otago also requested the applicant's evidence to include Part H and all of PC8 would then be dealt with in terms of evidence.

[13] All parties agreed to this during the telephone conference.

PC1 Chapter 7 – Landfills

[14] Some agreement had been reached prior to our telephone conference, and the applicant confirmed that it will file a joint memorandum and planning affidavit in relation to the landfill topic. I advised that I would deal with the landfill topic on the same basis as Part A, with 11 February 2022 being the proposed date for the applicant's evidence. Following this, the court will issue a decision on the papers in the event that no issues arise from the evidence that is filed.

[15] Given the level of detail discussed today, leave is reserved for parties to contact the court regarding the dates in my directions, should they dispute the record of telephone conference.

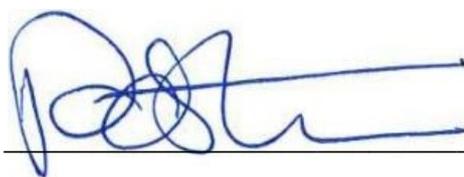
Directions

[16] Accordingly, I direct:

- (a) by **Friday 17 December 2021**:
 - (i) any party who did not attend mediation and who does not accept the set of amended provisions filed, is to advise the court and confirm if they wish to speak to their submission or call evidence (and if so, who they intend to call);
 - (ii) the parties that attended mediation are to file a memorandum outlining the witnesses that they intend to call; and
 - (iii) the applicant is to lodge and serve its evidence relating to the plan architecture.
- (b) the applicant is to lodge and serve any technical, compliance and/or consent evidence in support of the agreed PC8 provisions (including

- any issues remaining unresolved) by **Friday 11 February 2022** (this evidence may be called jointly with other parties in support of the mediated agreement);
- (c) any party in support of the mediated agreement, or opposed to it, is to lodge and serve any evidence by **Friday 18 February 2022**;
 - (d) by **Friday 25 February 2022**:
 - (i) the applicant and s274 parties in support of the mediated agreement are to lodge and serve any evidence in reply;
 - (ii) the applicant is to lodge and serve its s32AA report (as it relates to the Part A provisions agreed at mediation and any changes to the Part G provisions it is supporting), planning and regulatory evidence and the table of officer recommendations;
 - (e) the applicant and s274 parties in support of the mediated agreement are to lodge and serve any evidence in reply by **Friday 11 March 2022**;
 - (f) the applicant is to lodge four (4) copies of the compiled evidence with the Registrar by **Monday 14 March 2022** (to enable this, parties are to provide the applicant with four (4) hard copies of their evidence at the time of service); and
 - (g) the hearing will proceed on **Monday 21 March 2022** in Dunedin.

[17] Leave is reserved for any party to apply for further (or other) directions.



P Steven
Environment Judge

Issued: 10 December 2021

