

**BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I MUA 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 section 142(2)(b) of the Act)

OTAGO REGIONAL COUNCIL

(ENV-2020-CHC-128)

Applicant

**MINUTE OF THE ENVIRONMENT COURT
PROPOSED PLAN CHANGE 1 AND PLAN CHANGE 8**

**NOTICE OF MOTION AND LODGEMENT AND SERVICE OF DOCUMENTS
(23 October 2020)**

- A: Under s 149T of the Resource Management Act 1991, the notice of motion is accepted for lodgement in the Environment Court on 23 October 2020 and I direct:
- (i) all documents required by the Act or regulations to be served on other parties are to be filed in the Environment Court **no later than 3 pm on the date given for service**;
 - (ii) unless an alternative address for service is given, the service of documents will be effected by the court uploading the document onto its webpage.

Introduction

[1] The Otago Regional Council has applied for an order that the Environment Court consider proposed Plan Change 1 to the Regional Plan: Waste for Otago and proposed Plan Change 8 to the Regional Plan: Water for Otago and give a decision on their



provisions and matters raised in submissions. The two proposed Plan Changes are collectively referred to in the notice of motion as the “Omnibus Plan Change”.¹

[2] The grounds for the application are (in summary):

- (a) considering it part of a proposal of national significance, the Minister for the Environment has exercised his powers under s 142(2)(b) of the Resource Management Act 1991 (RMA) and called in the Omnibus Plan Change. The Minister directed the Plan Change be referred to the Environment Court for decision;
- (b) the Otago Regional Council referred the proposed Omnibus Plan Change to the Environment Court under s 149T(2) of the Resource Management Act 1991 by lodging the notice of motion together with the supporting affidavit of Anita Jayne Dawe;²
- (c) the Environmental Protection Authority gave public notice of the Minister’s direction to refer the proposed Omnibus Plan Change to the Environment Court for decision;
- (d) the proposed Omnibus Plan Change was publicly notified and submissions and further submissions on the Plan Change have been received; and
- (e) public notice has been given of the summary of submissions and separately the further submissions received.

[3] Section 149T provides that a matter that has been directed by the Minister to the Environment Court for decision, is to be lodged in the Environment Court by an applicant (using the notice of motion procedure). The legislation does not confer on the court any power or discretion in respect of that referral. For that reason, there is no need for any order in respect of the notice of motion.

[4] As I am satisfied that the requirements of the Resource Management Act 1991 are met, the notice of motion will be accepted for lodgement with the court. It follows that the court will give a decision on the provisions in proposed Plan Change 1 to the Regional Plan: Waste for Otago and proposed Plan Change 8 to the Regional Plan: Water for Otago (the “Omnibus Plan Change”) and the matters raised in submissions.

¹ Notice of motion dated 21 October 2020.

² Affidavit of Anita Jayne Dawe sworn 2 October 2020.



What happens next?

[5] The court will correspond over the next week with submitters on the plan changes, this will involve:

- (i) the Environment Court's Registry sending a letter advising submitters how to become a party to these proceedings; and
- (ii) releasing a Minute giving general direction to the parties to the proceeding.

Filing of documents with the Environment Court

[6] Parties can file documents with the court in person, by post or by email.

[7] Under the Environment Court Protocol: COVID-19 Alert Level 1³ the requirement to file paper original documents and the requirement to file a copy has been waived, although the court may still require a hard copy of the documentation to be filed in certain circumstances. If it does, parties will be advised.

Service of documents on other parties

[8] Documents are served on the other people (parties) involved in a court proceeding so that they have an opportunity to consider and respond, as appropriate.

[9] There may be many parties who will join this proceeding. The potential number of parties joining may cause the burden of serving documents by the usual methods in s 352 RMA to become onerous and costly. Given this, I will waive the usual method of service and will direct that uploading documents to the Environment Court's website is to be the method of service for all documents that are required to be served on other parties (relying on the court's powers in ss 269 and 281(1)(a)(iii) RMA).

[10] The Environment Court has established webpages for information relevant to the hearing of the plan changes which can be accessed via the following link: <https://environmentcourt.govt.nz/cases-online/>.⁴

³ Environment Court Updated Protocol: COVID-19 alert Level 1, 7 October 2020 at [13].

⁴ It is anticipated that the webpages will be live from approximately 4.00 pm 23 October 2020.



[11] Service will be completed when documents filed with the Environment Court are uploaded to its 'Plan Change 1' and 'Plan Change 8' webpages. This method of service should facilitate case management and simplify the process for engagement between the court and the parties.

[12] If any party wishes to specify an alternative method of service of documents required to be served on them, they may do so.⁵ If they do, and any other party is required to serve any documents, the alternative address is to be used. The Registry will contact all parties with the details of those who have specified an alternative method of service in due course.

[13] While parties are encouraged to regularly check the court's website, you will be notified by email when the webpage has been updated with new documents.

Jane S



J E Borthwick

Environment Judge

Issued: 23 October 2020

⁵ This can be done when giving notice to become a party to the proceeding.