

**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 7 to the Regional Plan: 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

Applicant

---

**MINUTE OF THE ENVIRONMENT COURT  
TIMETABLE DIRECTIONS AND EXPERT CONFERENCING  
PLAN CHANGE 7**

**(2 November 2020)**

---

**Introduction**

[1] This Minute sets out specific directions on proposed Plan Change 7 (PC7) required for the conferencing of expert witnesses and secondly, the timetable to bring the matter on for a hearing. The directions are in addition to the general directions made in the Minute dated 28 October 2020.

**Filing of the Notice of Motion**

[2] On 23 October 2020, the Environment Court accepted the notice of motion lodged by the Otago Regional Council requesting the court decide the provisions of the plan change and matters raised in submissions. The court then directed submitters on the plan change to give notice by Monday 16 November 2020 if they wish to become a party to the proceeding.

**Pre-hearing conference**

[3] I will set down PC7 for a pre-hearing conference to be convened in Dunedin at **10.00 am on Friday 27 November 2020**. The purpose of the pre-hearing conference is



to discuss the proposed timetable for evidence exchange and the convening of an expert conference (which I will come to next).

[4] All persons who are a party to PC7 proceedings are required to attend the pre-hearing conference unless you arrange for a representative to attend on your behalf. However, you may choose not to attend. If you choose not to attend, you are agreeing to abide by the directions made by the court at the pre-hearing conference (a record of which will issue shortly after).

[5] If there are matters which you wish to raise at the pre-hearing conference you will need to file a memorandum with the court setting the issues out. Those parties who are legally represented, are reminded to set out any draft directions sought.

### **Mediation**

[6] Given the level of opposition to PC7 there is little prospect of mediation either resolving or narrowing the matters in issue. I will not refer parties to court-facilitated mediation. If parties are of a mind, they can engage in private mediation or negotiations.

[7] Any party with a different view is invited to address mediation at the pre-hearing conference.

### **Expert conferencing**

[8] Many people have made submissions on Schedule 10A.4.

[9] The Schedule is a key method to implement the proposed new objective and policies as it sets out the methodology for calculating actual usage of surface-water takes for irrigation purposes.

[10] It is desirable and more efficient that any differences on this technical method are resolved or narrowed (at least) through the conferencing of expert witnesses. Any resolution reached through the conferencing will not derogate from the general submissions made on the Schedule or on any other provision in the plan change.



[11] Conferencing of expert witnesses will take place **during the hearing**, and once confirmed, further directions will follow.<sup>1</sup> Participating witnesses should anticipate those directions will be in accordance with the Environment Court's Practice Note 2014: Appendix 3 – Protocol for expert witness conferences. It is likely also that the conference will be multi-disciplinary.

### **Evidence timetable and hearing dates**

[12] The proposed timetable for filing evidence and the hearing dates are set out in **Attachment A** to this Minute. Preparing this timetable, I have assumed:

- (a) all parties calling expert witnesses will be heard in Dunedin. If more time is required for expert evidence, the court will return to Dunedin to hear the evidence;
- (b) the court will hear from parties not calling expert evidence either in Dunedin or Cromwell/Alexandra;<sup>2</sup> and
- (c) having heard from all parties, ORC may present final evidence-in-reply and closing submissions in Dunedin.

[13] At this stage, the court does not know the number of persons who made submissions on PC7 that will become parties to the court proceeding. It is possible the proposed timetable may be condensed if fewer people than anticipated wish to be heard.

[14] The timetable will be confirmed at the pre-hearing conference scheduled for 27 November 2020, once I have heard from the parties.

### **Hearing schedule**

[15] Nearer the hearing a separate Minute will be issued requesting parties to confirm their availability during one of the proposed hearing weeks (see **Attachment A**). You will be asked to advise:

- (a) how much time you want allocated to speak to your submission and/or for presenting evidence;

---

<sup>1</sup> See Attachment B for tentative dates.

<sup>2</sup> The likely hearing venue will be Cromwell, but this is to be confirmed.



- (b) except for those parties calling expert evidence, the venue where you wish to be heard;
- (c) any resources you require (the court will provide a projector for maps and large boards to attach plans, etc and will endeavour to provide any other reasonable resources, subject to availability);
- (d) whether you intend to call expert evidence (including any planning witness);
- (e) whether you wish to address the court in Māori; and
- (f) whether, when addressing the court, you require a sign language (or other language) interpreter.

[16] The ORC Hearing Administrators (Glen Cooper and Rebecca Jackson) will email a hearing schedule to parties showing the location, date, sequence and time allocated to each party. The time allocated to each party will reflect your estimate given and will take into account the limit on the length of cross-examination. We will upload the Hearing Schedule to the court's website.

[17] Leave will be required from the court to exceed the time allocated.

### **Cross-examination**

[18] Subject to the directions of the court, parties may cross-examine witnesses. The court may also have questions for witnesses.

[19] Cross-examination (questioning) of witnesses is expected in relation to significant relevant matters that are in issue. It would be unusual, however, to cross-examine a witness who is not an expert, save in relation to a disputed fact or other circumstance, including matters of credibility.

[20] In a multi-party case, such as this, the court will require parties to agree on the general order in which they cross-examine witnesses and will limit the cross-examination of witnesses by parties having the same interest.

[21] The court will not permit unduly protracted cross-examination of witnesses. The party seeking to cross-examine is to abide by any directions the court has made on cross-examination. Cross-examination is also a topic that the Friend of Submitter may be able to give guidance on.



[22] After evidence has been served, any party wishing to cross-examine is to file a notice with the court identifying the witness to be cross-examined and the order in which parties are to cross-examine. You are required to give notice by the time indicated in **Attachment A**.

[23] Unless leave is granted by the court, cross-examination of witnesses by each party is not to exceed 30 minutes. Any application for leave to exceed this limit is to be filed 10 working days before the hearing commences, giving reasons.

### **Directions**

[24] I direct:

- (a) PC7 is to be set down for a pre-hearing conference in Dunedin at **10 am on Friday 27 November 2020**. A pre-hearing conference notice will issue shortly;
- (b) any party proposing amendments to the timetable and/or seeking other directions are to do so in a memorandum to be filed by **3 pm Monday 23 November 2020**;
- (c) any party planning to attend the pre-hearing conference is to file a memorandum advising their attendance by **3 pm Monday 23 November 2020**. If you do not attend, the court will assume that you agree to abide by the directions made by the court at (or following on from) the conference.

Jane S.



---

**J E Borthwick**  
**Environment Judge**

Issued: 2 November 2020

## Attachment A

Event	Venue	Date
Filing date of notice to become a party to PC 7 proceeding		16 November 2020
<b>Pre-hearing conference</b>	Dunedin	27 November 2020

Timetable evidence exchange		
Event	Venue	Date
ORC evidence-in chief		1 December 2020
Parties evidence-in-chief		29 January 2021
ORC reply		12 February 2021

Notice of cross-examination		
Event	Venue	Date
ORC evidence-in chief		18 December 2020
Parties evidence-in-chief		12 February 2021
ORC evidence-in-reply <sup>3</sup>		19 February 2021

Expert conferencing		
Event	Venue	Event week
Conference Date	Dunedin	22 March 2021
Release of joint witness statement		31 March 2021 (date for filing)

---

<sup>3</sup> If, having received the Regional Council's evidence-in-chief, you have given notice that you wish to cross-examine their witnesses, there is no need to give notice again when the Regional Council files its evidence in reply.



<b>Hearing Dates</b>		
<b>Event</b>	<b>Venue</b>	<b>Event week</b>
Hearing	Dunedin	1 March 2021
Hearing	Dunedin	8 March 2021
Hearing	Dunedin	15 March 2021
Hearing	Cromwell/Alexander	7 April 2021
Hearing	Cromwell/Alexander	12 April 2021
Hearing	Cromwell/Alexander (if required)	3 May 2021
Hearing Completion of expert evidence if required, presentation of joint witness statements and ORC evidence-in-reply and closing submission.	Dunedin	10 May 2021
	Dunedin (if required)	17 May 2021

