

**BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH**

IN THE MATTER of the Resource Management Act 1991
(the 'Act')

AND

IN THE MATTER of a notice of motion under s149T(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)

BETWEEN Otago Regional Council

Applicant

AND Trustpower Limited

Party

MEMORANDUM OF COUNSEL FOR TRUSTPOWER LIMITED

20 November 2020

Judicial Officer: Judge Borthwick

MAY IT PLEASE THE COURT:

1. This Memorandum of Counsel has been prepared on behalf of Trustpower Limited, a submitter and party on Proposed Plan Change 7. Trustpower Limited owns and operates the Waipori hydro-electric power scheme ("Waipori Scheme"), located south-west of Dunedin. Some of the authorisations held by Trustpower Limited in respect of the Waipori Scheme include deemed permits that divert flow for hydro-electric power generation. Trustpower has applications for replacement consents before the Otago Regional Council in respect of three deemed permits, and a fourth application is to be filed shortly.
2. In accordance with the Court's Directions of 2 November 2020, we record that we intend to enter an appearance on behalf of Trustpower Limited at the Pre-Hearing Conference on 27 November 2020.
3. Trustpower Limited does not seek any amendment to the proposed timetable for the evidence set out in the Court's Directions, however we make the following observations in regard to the proposed conferencing on Schedule 10A.4:
 - (a) As Trustpower intends to call expert evidence (a planner and a hydrologist) including on Schedule 10A.4, it is likely that it will be heard sometime in the weeks of 1, 8 or 15 March 2021.
 - (b) The Court anticipates conferencing will take place during the hearing and conferencing is proposed for the week of 22 March 2021, with the Joint Witness Statement to be filed on 31 March 2021. It is probable that Trustpower (and other parties calling expert evidence) will have concluded its case prior to the conferencing commencing. Although the draft timetable provides for an additional hearing week in the week of 10 May 2021, this is recorded as being on an "*if required*" basis.

- (c) It is respectfully submitted that it would be beneficial to the parties and the Court if the Joint Witness Statement was filed prior to the completion of any party's case who has an interest in and is calling expert evidence on the Schedule in order to avoid a second appearance in May 2021 (if that were possible) to deal with any residual issues associated with the Schedule. Alternatively, we request that provision is made for a party to file further submissions on the Joint Witness Statement if they have already concluded their case in the weeks prior to the Joint Witness Statement being filed.
- (d) Further, the Court notes that the conferencing will be multi-disciplinary and as such planners (including the planner to be called for Trustpower) will be required to attend. We are advised that the NZPI conference is scheduled in Nelson for 24-26 March 2021 and it would therefore be appreciated, if possible, to avoid planners conferencing on those days.
- (e) Finally, neither of Trustpower's experts are located in Dunedin. It would therefore be efficient if attendance at the conference was permissible by video link.

Dated: 20 November 2020



Jason Welsh
Counsel for Trustpower Limited