



THE ENVIRONMENT COURT OF NEW ZEALAND

NOTICE OF EXPERT WITNESS CONFERENCE

Expert witness conferencing following evidence exchange has been arranged for expert witnesses giving evidence related to Plan Change 7 to the Regional Plan: Water for Otago **Schedule 10A.4: Methodology for calculating assessed actual usage for surface-water takes for irrigation purposes** at the proceedings listed in the attached Schedule over four days. The conference will take place as follows:

DATE:	Monday 29 March 2021 – Thursday 1 April 2021
TIME:	10.00 am
VENUE:	Cargill Room Scenic Hotel Southern Cross 118 High Street Dunedin Telephone: 03 477 0752

The purpose of the expert witness conferencing is to enhance the efficiency of the court hearing process by providing for expert witnesses to confer and identify the issues on which they agree, with reasons. They are also to clearly identify the issues on which they cannot agree and give reasons for their disagreement. This will enable the court to focus primarily on matters that remain in dispute, while understanding the basis for agreed matters.

General Directions

All parties calling expert¹ evidence on this topic are to provide their respective experts with a copy of the Environment Court's Expert Witnesses Code of Conduct (Part 7, Environment Court Practice Note 2014) and Protocol for Expert Witness Conferences (Appendix 3, Environment Court Practice Note 2014) and to brief them on their responsibilities under these. Particular attention is to be

¹ Refer Environment Court Practice Note (2014), Appendix 3 at [1](c) for a description of persons recognised by the court as an expert.

drawn to those parts which require experts to express their views independent of counsel and the parties who have engaged them.

Experts are to be provided with all relevant documentation, updated as appropriate, including evidence and reports necessary to enable them to thoroughly understand the issues in the proceeding. While no direction has been made as to the filing of an Agreed Statement of Facts² prior to the expert conference, the facilitating Commissioner may direct this at a later date.

The court transcript excepted, counsel are to ensure that all documentation referred to above is with the experts and the facilitator at least **10 working days** prior to the start of the conference. The relevant parts of the transcript are to be provided as soon as they are available. Specific direction on agenda setting and timetabling is given below.

The court's preference is for all expert conferencing to be "face to face". If any expert is only able to participate remotely, the agreement of the facilitating Commissioner must be sought at least **14 working days** prior to the commencement of the conference.

Counsel are to liaise on the provision of a suitable recorder to attend the conference and prepare the Joint Witness Statement under the direction of the experts. Recorders are to be supplied with the necessary technical equipment, including a laptop computer and preferably a projector and screen (or smart board) in order to ensure efficient recording of agreed wording for the Statement. It is important that the recorder has proficient keyboard and related IT skills and preferably has some technical knowledge of the issues to be discussed.

The Joint Witness Statement agreed from the conference will identify the issues, both agreed and not agreed, accompanied by the experts' reasoning set out as succinctly as the circumstances allow. The Joint Witness Statement should be completed, signed and dated on the last day of the conference or on the date directed by the facilitating Commissioner. Counsel are to arrange for one of their number to be responsible for circulation of the Joint Witness Statement to the parties and the facilitator and the required filing with the court by **Friday 9 April 2021**.

Participants are to be advised by counsel that expert witness conferencing is privileged except for the signed Joint Witness Statement prepared by the experts following the conference, which will be part of the public record.

² Refer Environment Court Practice Note (2014), Appendix 3 at [2].

Directions: Agenda Setting and Timetabling

To ensure that the expert conference can be properly planned and that it runs smoothly, it is important for the court to have an early indication of potential agenda items, agenda order and likely time requirements. Consideration is to be given to whether different disciplines conference ahead of the planning witnesses, with planners observing at the same.³

To support the agenda setting process, counsel for the Otago Regional Council is to prepare a draft agenda and timetable by **Friday 19 February 2021**. The draft agenda is to be filed in court for the attention of the facilitating commissioner; Commissioner Kathryn Edmonds. This requirement is in addition to the directions given at the Pre-hearing Conference and set out in the Minute: Timetable Directions and Expert Conferencing Plan Change 7 (27 November 2020).

Working closely with their respective experts, the parties are to co-operate in refining the agenda and will propose a timetable for the sequencing of topics and issues for expert conferencing and to confirm the names of those experts who it is proposed attend the various sessions to be held over the week of the conference.⁴ The refined agenda and timetable and the names, expertise and contact details of the experts attending the various sessions are to be circulated to all counsel, attendees and the facilitator by **Monday 1 March 2021**.

Agenda setting will inevitably evolve as the evidence is heard and tested in court. There may also be directions from the Judge that refer particular issues and questions to the expert conference.

Any changes proposed to the agenda, timetable and list of witnesses attending various sessions after 1 March 2021 are to be advised to the attendees and the facilitator as soon as possible but in any event no later than **Wednesday 24 March 2021**.

CORRESPONDENCE AND ENQUIRIES

General information on the Environment Court is available here: <https://environmentcourt.govt.nz/>.

Information about the Otago Regional Council Plan Change 7 can be accessed here: <https://environmentcourt.govt.nz/cases-online/orc-pcs-1-7-8/pc7/>.

³ In which case it is envisaged that the planners are the final group to conference.

⁴ Attached to this Notice is a list of experts giving evidence on the topic for the expert conference. If incomplete, it is to be updated.

The Environment Court's Practice Note 2014, which serves as a guide to the court's processes (including expert conferencing) is available here: <https://environmentcourt.govt.nz/cases-online/orc-pcs-1-7-8/general-information/#practice-note>.

Please direct all correspondence or enquiries about this Notice or the procedures for the conferencing to me, Kathryn Edmonds, and provide our Mediation Manager, Karina Kelly (Karina.Kelly@justice.govt.nz), with a copy.

If you have any special requirements please advise me, preferably well in advance, so that they can be attended to.

Dated at Christchurch Environment Court Registry on 12 February 2021



Kathryn Edmonds
Environment Court Commissioner
E-mail address: Kathryn.Edmonds@justice.govt.nz

Karina Kelly
Mediation Manager
Email address: Karina.Kelly@justice.govt.nz

PO Box 2069, WX 11113
Christchurch
Telephone: 03 367 6014

SCHEDULE OF PROCEEDINGS

1. **Topic:** **Decision on the provisions and matters raised in submissions on Otago Regional Council Plan Change 7**
Topic Number: **ENV-2020-309-000015**

- i. Otago Regional Council
Application under s 149T(2) of the Resource Management Act 1991
Court Reference: ENV-2020-CHC-000127

Attachment A

Parties that have filed expert evidence in relation to Schedule 10.A.4

- Tom de Pelsemaeker, Team Leader Freshwater and Land (Otago Regional Council)
- Simon Wilson, Manager Regulatory Data and Systems (Otago Regional Council)
- Sean Leslie, Systems and Information Analyst (Otago Regional Council)
- Helen Marie Marr, Senior Planner (Beef + Lamb)
- Dr Lionel John Hume, Senior Policy Advisor (Federated Farmers)
- Vance Hodgson, Planner (Horticulture New Zealand)
- Stuart John Ford, Agriculture and Resource Economist (Horticulture New Zealand)
- Christina Elyse Bright, Environmental Scientist (Landpro Limited)
- Clare Rose Perkins, Senior Planner and Planning Team Lead (Landpro Limited)
- Anthony Davoren, Consultant (Strath Clyde Water Limited, McArthur Ridge Vineyard Limited and Mount Dunstan Estates Limited)
- Sandra McIntyre Principal Planner (Aukaha)
- Sally Dicey, Resource Management Planning Consultant (Otago Water Resources User Group Inc)
- Matthew Aaron Hickey, Consultant – Ecological Flow Setting (Otago Water Resources User Group Inc)
- Ian McIndoe, Principal Water Resources Engineer and Managing Director (Otago Water Resources User Group Inc and Horticulture New Zealand)
- Thomas Brendan Heller, Consultant Scientist (Territorial Authorities)
- Paul Michael Mitchell, Consultant/Corporate Hydrologist/Chartered Professional Engineer (Trustpower)
- Stephanie Styles, Senior Resource Management Planner (Trustpower)