

**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
PLAN CHANGE 1 AND PLAN CHANGE 8**

**Mediation and Expert Conferencing
(15 February 2021)**

Introduction

[1] Further to the General Directions Minute dated 28 October 2020, the court is now looking to put alternative dispute resolution (ADR) in place in relation to Otago Regional Council Plan Changes 1 and 8.

Plan Change 1 (PC1)

[2] I consider all PC1 is amendable to mediation, there being a reasonable prospect of settling or narrowing the differences between the parties. Unless any party has an objection in principle, I will refer the parties who have made a submission on this plan change to court-assisted mediation.



Plan Change 8 (PC8)

[3] Likewise, I consider the following provisions of PC8 are also amenable to mediation:

- (a) amended Policy 7.C.5;
- (b) amended Policy 7.C.6;
- (c) new Policy 7.C.12;
- (d) new Policy 7.D.10;
- (e) new Rule 14.5.1;
- (f) new Rule 14.5.2;
- (g) new definition “earthworks”; and
- (h) amended Policy 10.4.2.

[4] The following plan change topics may benefit from expert conferencing:¹

- (a) Schedule 18 – storage pond drop test requirements and criteria; and
- (b) Schedule 19 – storage calculation.

[5] In my view, the differences between the parties on the balance of the PC8 provisions are unlikely to be resolved through mediation and therefore no referral will be made. Parties are to say if they have a different view.

ADR Schedule

[6] A spreadsheet identifying the parties that have submitted on PC1 and the relevant provisions of PC8 has been prepared and is attached to this Minute as **Annexure 1**. I will ask ORC hearing administrators, Glen Cooper and Rebecca Jackson, to liaise with the parties and confirm their interest in the relevant provisions. They are to report back to the court by **Monday 1 March 2021**.

¹ Note, only those parties intending to call expert evidence on these topics would be involved in the expert conferencing.

National Policy Statement for Freshwater Management 2020, Resource Management (National Environmental Standards for Freshwater) Regulations 2020 and Resource Management (Stock Exclusion) Regulations 2020

[7] Urgent guidance is sought from the Regional Council as to whether any potential amendments may be required to PC8 in response to the above instruments.

[8] If amendments are to be proposed in response, these will be tabled before mediation/expert conferencing and before directions are made for evidence exchange in relation to the balance of PC8's provisions.

[9] Parties are to note that if less hearing time is required in relation to the PC7 proceedings, they are to anticipate a hearing on PC8 commencing July – August 2021.

Timing

[10] With the above in mind, the court anticipates that the above mediation and expert conferencing will be completed by 1 June 2021 (if not earlier). Commissioner Kathryn Edmonds is to facilitate the same.

Directions

[11] Any party having a different view on the matters to be referred to mediation/expert conferencing is to advise the court in writing, stating reasons, by **Monday 1 March 2021**.

[12] The Regional Council is also directed to respond by **Monday 1 March 2021** to the matter addressed in paragraphs [7]-[9] above. When responding, the Regional Council will propose a date for filing a set of amendments (if contemplated) in response to the planning instruments set out above.

Jane S.



J E Borthwick
Environment Judge

Issued: 15 February 2021

Annexure 1

PC1 Introduction	Provision	Provision Detail	List of parties	Mediation	Expert Conferencing
	General submission points on PC1			✓	
Use of dust suppressants and waste oil	Chapter 6 Introduction			✓	
	Amended Policy 6.4.10	Prevent waste oil and provide for safer alternatives		✓	
	Amended Method 6.5.23	Control discharge of dust suppressants		✓	
	Amended Rule 6.6.2	PA Discharge of dust suppressants		✓	
	Amended Rule 6.6.3	DA Discharge of dust suppressants		✓	
	New Rule 6.6.4	Prohibited Discharge of waste oil	To be confirmed by ORC Hearing Administrator (Glen Cooper/ Rebecca Johnson).	✓	
	Result 6.7.6	Avoid use of waste oil		✓	
	New definition	Waste Oil		✓	
	Amended Appendix 2	Minor changes		✓	
	Issue 7.2.2 and 7.2.3			✓	
Method 7.5		✓			
Objective 7.3	Minor changes	✓			
New Policy 7.4	Minimise adverse effects of discharges from new and operating landfills	✓			
Amendments to landfill rules 7.6	Minor changes	✓			
Minimum standards for new landfills					

PC8 Introduction	Part Heading	Part	Provision	Provision Detail	List of parties	Mediation	Expert Conferencing
Managing, through enhanced policy direction, decision-making on stormwater, wastewater and rural discharges	Discharge Policies	Part A	Amended Policy 7.C.5	Minimise adverse effects of discharges from stormwater systems	Kāi Tahu ki Otago (Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga), Director General of conservation, Dunedin City Council, Federated Farmers, Horticulture NZ, Matthew Sole Ngāi Tahu Ki Murihiku, Otago Fish and Game Council and the Central South Island Fish and Game Council, Ravensdown Ltd Royal Forest and Bird Protection Society of New Zealand Inc, Southern District Health Board	✓	
			Amended Policy 7.C.6	Reduce adverse effects of discharges from stormwater systems		✓	
			New Policy 7.C.12	Reduce adverse effects of discharges of human sewage		✓	
Effluent storage and application to land through new minimum standards	Animal waste storage and application	Part B	Schedule 18	Storage pond drop test requirements and criteria	Kāi Tahu ki Otago (Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga Dairy Holdings Ltd, DairyNZ Limited, Director General of Conservation, Federated Farmers, Horticulture New Zealand, Lambhill Station, Lower Waitaki Irrigation Company, Mt Aspiring Station Ltd, New Zealand Deer Farmers Association, New Zealand Pork Industry Board, Ngāi Tahu Ki Murihiku, North Otago Irrigation Company, Otago Fish and Game Council and the Central South Island Fish and Game Council, Ravensdown Ltd Royal Forest and Bird, Protection Society of New Zealand Inc, Southern District Health Board		✓
			Schedule 19	Storage calculation			✓

PC8 Introduction	Part Heading	Part	Provision	Provision Detail	List of parties	Mediation	Expert Conferencing
Improving management of sediment loss from earthworks for residential development	Sediment from earthworks for residential development	Part G	New Policy 7.D.10	Loss or discharge of sediment from earthworks	Kāi Tahu ki Otago (Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga, Director General of Conservation, Federated Farmers, Horticulture New Zealand, Ngāi Tahu Ki Murihiku, Otago Fish and Game Council and the Central South Island Fish and Game Council, Phil Murray Resource Management Ltd, Queenstown Lakes District Council, RCL Henley Downs Ltd, Remarkables Park Ltd, Royal Forest and Bird Protection Society Ltd, Vivian & Espie Ltd	✓	
			New Rule 14.5.1	Permitted land use and discharge		✓	
			New Rule 14.5.2	RDA land use and discharge		✓	
			New definition	Earthworks		✓	
Clarifying provision for nationally and regionally significant infrastructure in wetlands	Nationally or regionally important infrastructure	Part H	Amended Policy 10.4.2	Changing 'important' to 'significant'	Kāi Tahu ki Otago (Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga, Director General of Conservation, Federated Farmers, Horticulture New Zealand, Royal Forest and Bird Protection Society of New Zealand Inc	✓	

