



## THE ENVIRONMENT COURT OF NEW ZEALAND

### NOTICE OF EXPERT WITNESS CONFERENCES

Expert witness conferencing has been arranged for expert witnesses<sup>1</sup> giving evidence on 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. The conferences will take place as follows:

TIME/DATE:	Topic
09:00 AM Wednesday 24 March – Thursday 25 March 2021 Witnesses to be available for a reserve day Friday 26 March 2021	Primary Sector
09:00 AM Tuesday 30 March 2021	Hydro electricity generation
09:00 AM Wednesday 31 March 2021	Community Water Supply
09:00 AM Wednesday 7 April – Thursday 8 April 2021	Planning

VENUE:
Scenic Hotel Southern Cross 118 High Street Dunedin Telephone: 03 477 0752

**Note:** the reason for the primary sector conference reserve day on Friday 26 March 2021 is to ensure two full days are available should conferencing not be able to start until Thursday 25 March 2021 because participating witnesses are required in court.

Where directions in this Notice differ from those in Commissioner Edmonds' 12 February 2021 Notice of Conferencing, the current Notice prevails.

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<sup>1</sup> Refer Environment Court's Expert Witnesses Code of Conduct Appendix 3 at [1] (c) for description of the term expert witness.

Conference participants are to familiarise themselves with the Court's Minute dated 16 March '21 on Expert Conferencing. In a subsequent communication the facilitator will confirm arrangements for:

- a) Nominated representatives of the primary sector conference to attend the start of the 30 March hydro and 31 March '21 community water supply conferences to brief witnesses participating in the latter on the primary sector JWS;
- b) Nominated representatives of the primary sector, hydro and community water supplies conference to attend the start of the 7 – 8 April planning conference to introduce their respective joint witness statements to the planners.

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 do not 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 expert<sup>2</sup> evidence on the scheduled conference topics 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 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, or directed to where they can access on the Court's web site, all relevant documentation updated as appropriate, including evidence, reports and the transcript of proceedings necessary to enable them to thoroughly understand the issues in the proceeding relevant to PC 7 Schedule 10A.4.

The court transcript excepted, counsel are to ensure that all documentation referred to above is with or accessible to the experts and the facilitator at least **5 working days** prior to the start of the conference.<sup>3</sup> Relevant parts of the transcript are to be provided as soon as they become available. Specific directions on agenda setting and timetabling are given below.

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<sup>3</sup> Counsel are advised that the facilitator has electronic access to all related materials on the Court's website.

On the current proceeding the court's strong preference is for all expert conferencing to be "face to face" and as no application has been received for remote participation the experts are required to attend in person.

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. The venue will provide a projector, screen (or smart board) and connecting cable 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 completion of the conference or by such other date directed by the facilitator. Counsel for the Otago Regional Council is to file and serve the finalised Joint Witness Statement on receipt from the Conference(s) and arrange for its circulation to the parties and the facilitator forthwith.

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.

#### **Directions: Agenda Setting and Timetabling**

The draft conference agendas filed by Ms Mehlhopt for the Otago Regional Council on 16 March 2021, which it is understood resulted from inter party consultation, are gratefully acknowledged. In order to finalise the agendas prior to conferencing:

- a) Any suggested changes to the draft primary sector agenda which counsel for parties with a participating witness may have are to be provided to Ms Mehlhopt and the facilitator by 10 am on Tuesday 23 March '21. A final agenda is to be circulated by Ms Mehlhopt to counsel, participating witnesses and the facilitator by 2 pm on the 23<sup>rd</sup> March.
- b) Any suggested changes to the draft hydro and community water supplies agendas which counsel for parties with a participating witness may have are to be provided to Ms Mehlhopt and the facilitator by 10 am on Monday 29<sup>th</sup> March '21. A final agenda is to be circulated by Ms Mehlhopt to counsel, participating witnesses and the facilitator by 2 pm on the 29<sup>th</sup> March.
- c) Directions for finalisation of the planners' conference will issue subsequently.

For the avoidance of doubt, it is confirmed that the primary sector conference experts generating data sets, scenarios and worked examples of proposed Schedule 10A.4 methodologies are to exchange these materials with all other primary sector conference participants by 5 pm Saturday 20<sup>th</sup> March '21.

Ms Mehlhopt's 16 March 2021 Memorandum has the names of witnesses who it is intended participate in conferencing. The names are set out by conference at the end of this Notice. Should a change in participants be proposed the facilitator is to be advised and confirmation sought **3 working days** prior to the commencement date.

To facilitate communications the names and contact details (telephone and email address) of the experts attending conferencing will be circulated by the Christchurch Registry to all counsel, attendees and the facilitator shortly.

It is recognised that agenda setting may evolve as 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(s).

## **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/>.

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, Ross Dunlop, and provide the court's 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 18 March 2021**



**Ross Dunlop**  
**Special Advisor**

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**Karina Kelly**  
**Mediation Manager**

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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

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

#### PRIMARY SECTOR CONFERENCING

<b>Witness</b>	<b>Party</b>
Simon Wilson	Otago Regional Council
Sean Leslie	Otago Regional Council
Christina Bright	Landpro Limited
Ian McIndoe	Otago Water Resource User Group, Horticulture New Zealand
Matthew Hickey	Otago Water Resources User Group
Anthony Davoren	McArthur Ridge Vineyard Ltd, Mount Dunstan Estates Ltd, Strath Clyde Water Ltd
Dugald MacTavish	WISE Response
Dr Lionel Hume	Federated Farmers

## HYDRO CONFERENCING

<b>Witness</b>	<b>Party</b>
Simon Wilson	Otago Regional Council
Sean Leslie	Otago Regional Council
Roddy Henderson	Otago Regional Council
Tom de Pelsemaeker	Otago Regional Council
Paul Mitchell	Trustpower
Stephanie Styles	Trustpower

## COMMUNITY WATER SUPPLIES CONFERENCING

<b>Witness</b>	<b>Party</b>
Simon Wilson	Otago Regional Council
Sean Leslie	Otago Regional Council
Roddy Henderson	Otago Regional Council
Tom de Pelsemaeker	Otago Regional Council
Matthew Twose	Territorial authorities
Tom Heller	Territorial authorities

## PLANNING CONFERENCING

<b>Witness</b>	<b>Party</b>
Tom de Pelsemaeker	Otago Regional Council
Sally Dicey	Otago Water Resource Users Group
Matthew Twose	Territorial authorities
Stephanie Styles	Trustpower
Claire Perkins	Landpro
Sandra McIntyre	Nga Runanga
Tim Ensor	Minister for the Environment
Vance Hodgson	Horticulture New Zealand
Helen Marr	Beef and Lamb