

**IN THE ENVIRONMENT COURT  
AT CHRISTCHURCH  
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 (referred to the Environment Court by the Minister for the Environment under section 142(2)(b) of the Act)

BETWEEN OTAGO REGIONAL COUNCIL

(ENV-2020-CHC-128)

Applicant

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**MINUTE OF THE ENVIRONMENT COURT  
PLAN CHANGE 1 - MEDIATION**

**(21 April 2021)**

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**Introduction**

[1] This Minute is released for the purpose of case management and addresses the referral to mediation of Plan Change 1 (PC1).<sup>1</sup>

[2] Given the discrete topics PC1 addresses (dust and landfills), I propose to transfer this plan change to another case managing Judge to expediate the proceeding. While Plan Change 1 and 8 have been referred to as the ‘omnibus plan change’ they deal with different Regional Plans and on that basis I do not

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<sup>1</sup> These directions are in addition to the general directions made in the Minute dated 28 October 2020.



foresee any issue arising with addressing them separately. Parties are to advise if they have a different view. In the meantime, I will make directions referring the matter to mediation.

### **Parties to PC1**

[3] No party objects to the referral of PC1 to mediation.<sup>2</sup> Attached to this Minute and labelled **Annexure 1** is a list of parties with an interest in PC1.

### **Mediation**

[4] Mr Ross Dunlop has re-joined the Environment Court as a Deputy Commissioner. Commissioner Dunlop will be facilitating mediation.

[5] In consultation with Commissioner Dunlop, the procedure for mediation is set out in **Annexure 2** to this Minute. Commissioner Dunlop may amend the procedure by issuing a Minute(s).

[6] Mediation on PC1 is to be concluded by **Friday 9 July 2021**. Thereafter further directions will issue from the appointed case managing Judge.

### **Directions**

[7] I direct PC1 is referred to mediation to be completed by **Friday 9 July 2021**.

[8] Any party opposing the dealing with PC1 in proceedings that are separate to PC8 is to notify the court by **Friday 30 April 2021**.

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<sup>2</sup> Minute: Mediation and Expert Conferencing dated 15 February 2021.

[9] Leave is reserved to apply for further (or other) directions.

*Jane S.*

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



Issued: 21 April 2021

## **Annexure 1**

### **List of parties**

Otago Regional Council

Big Stone Forests Limited

Director-General of Conservation

Dunedin City Council

Dunedin International Airport Limited

Federated Farmers of New Zealand – Otago and North Otago provinces

James Miles

John Cocks

Matthew Sole

Ngāi Tahu Ki Murihiku

Otago Fish and Game Council and the Central South Island Fish and Game Council

Royal Forest and Bird Protection Society of New Zealand Inc

Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui

Rūnanga

Te Rūnanga o Ngāi Tahu (Te Rūnanga).

## **Annexure 2**

### **Mediation Procedure**

[1] Pre-mediation consultation is essential given the time constraints and the constraints on the Environment Court's commissioner resources.

[2] In advance of mediation, Environment Commissioner Ross Dunlop will work with the parties to:

- (a) lead a robust distillation of the issues in dispute to provide the basis for the parties' agenda at mediation; and
- (b) facilitate the identification of contested facts and opinions, the resolution of which may or will be important for the parties to agree as a basis for subsequently settling the matter(s) in dispute.

#### **Pre-mediation actions**

[3] The Regional Council is to use its best endeavours to confer with each of the parties on their interest(s) in the relevant topic and reasons for seeking change and:

- (a) prepare an Options Paper in A3 table word format which sets out the issue(s) to be mediated under each topic, the provisions submitted on and the relief sought by each party; and
- (b) indicate, without prejudice, as to whether the Regional Council will:
  - consider adopting with or without amendment the relief sought by another party or propose an alternative relief;
  - or
  - support the notified version of the plan change.

[4] **Five working days prior to mediation** the Options Paper is to be circulated by the Regional Council to the parties and mediator. Should the Regional Council's preliminary position on an issue differ from that preferred in

the PC1 s 32 report, the Options Paper is to be accompanied by a further s 32 analysis of the Regional Council's position.

[5] The Options Paper is also to be accompanied by any new technical material(s) pertinent to the issue that the Regional Council may propose to rely on, which was not available when PC1 was notified. The Regional Council may also wish to circulate any other potentially relevant background technical material(s) that it considers may assist the mediation.

[6] If any party or their expert advisor takes issue with the matters addressed in any pre-circulated technical paper, they must file and serve an annotated copy of the technical paper(s)<sup>3</sup> succinctly indicating the matter in issue **two working days prior** to the mediation.

### **Mediation Agenda**

[7] To ensure that the mediation can be properly planned and runs efficiently, it is important for the parties and mediator to have a prior indication of potential agenda items, the agenda order and likely time requirements. It is anticipated the draft agenda will reflect and build on the issues contained in the Options Paper and their sequence, as appropriate.

[8] The parties are to co-operate in preparing the draft agenda which is to be filed by the Regional Council **two working days prior to mediation**, and separately provide to the Christchurch Registry with the information requested in the court's standard mediation attendance form on persons attending and their roles.

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<sup>3</sup> Tracking the change.

