

**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 8: Water for Otago (referred to
the Environment Court by the Minister
for the Environment under s 142(2)(b)
of the Act)
BETWEEN OTAGO REGIONAL COUNCIL
(ENV-2020-CHC-128)
Applicant

**MINUTE OF THE ENVIRONMENT COURT
PLAN CHANGE 8
MEDIATION OF PRIMARY SECTOR TOPICS
(dated 27 May 2021)**

[1] The purpose of this Minute is to put in place arrangements for conducting mediations on Proposed Plan Change 8 primary sector topics. The topics are Discharge Policies Rural, Good Farming Practices, Stock Access to Water, Sediment Traps, Animal Waste Storage and Application and Intensive Grazing.

[2] As indicated in the Court's 21 April 2021 Minute I have been appointed to conduct the mediations. To this end I met with representatives of the Otago Regional Council on 7 May 2021 to discuss arrangements for the mediations and related scheduling matters, bearing in mind they are to be completed by 9 July 2021. No discussion on the merits of parties' submissions occurred at that meeting.



Timetable

[3] Counsel for the Council, having consulted the parties, has identified five days 28 June – 2 July 2021 for conducting the mediations with 8–9 July 2021 to be kept free as reserve days. I am advised by the Council that these dates align best with the availability of parties. Every endeavour has been made to avoid dates that would otherwise have conflicted with existing Senior Court, Environment Court and Council fixtures. The date, venue, and commencement time for each topic will be notified in a subsequent court Notice of Mediation. It is intended that all mediations be conducted in person in Dunedin. These mediations are to be concluded by 9 July 2021.

[4] If for any reason a party wishes to request a change to the programme for a specific topic they must first obtain agreement from all other parties to that topic and advise the Council accordingly. No change to the timetable will be considered without such supporting documentation and even then, the court for resource reasons may not be able to accommodate a change.

[5] In a subsequent Minute I will advise the sequence that the primary sector topics will be mediated in and the time allocated for each topic. Parties will appreciate that the mediation of individual topics may proceed either more quickly or more slowly than allowed for and should be prepared to be flexible with attendance arrangements in response to communications from Council regarding progress.

Mediation logistics

[6] The Council will provide a support person at all mediations to assist with the drafting of mediation agreements, accessing documents, and communicating with parties during the mediation about progress and timing.

Preparation for mediation

[7] Parties are to attend having given prior consideration to potential ways of

settling the matters in dispute and be prepared to engage meaningfully in the discussion of the same. Advisors are to participate with a clear understanding of the outcome(s) sought by their clients and be prepared to articulate such.

[8] The Council will circulate a Position paper on A3 size paper formatted as a table not less than **five (5) working days** prior to each mediation setting out submission details and relief sought for each topic and subtopic by party, together with a summary of Council's preliminary position. The latter may be elaborated on in an accompanying options paper, which sets out more fully Council's reasons for supporting an identified outcome with an updated s 32 analysis. As provided for in the court's 21 April 2021 Minute,¹ the Council is to also circulate any new technical material pertinent to the topic that it may propose to rely on, that was not available when PC8 was notified. The Council may also wish to circulate any other potentially relevant background technical material(s) that it considers may assist the mediation.²

[9] Having reviewed the Council's preceding materials, parties are invited to circulate indicative Position papers in response – including to the mediator – not less than **two (2) working days** prior to mediation where they consider this would assist the mediation. This will be especially useful, and is expressly sought, where a party proposes to seek alternative plan provisions or relief that is within scope but was not included in the party's submission.

[10] The Council will provide its Position paper in Microsoft Word format, and parties may elect to use the Council's table as a base for their own Position papers by adding a column. Party Position papers that do not utilise Council's table should generally be limited to two pages of text, excluding drawings and the like.

¹ Environment Court Minute 'Timetable directions, mediation and expert conferencing' dated 21 April 2021 Annexure 2 at [5].

² If a party takes issue with the matters addressed in any pre-circulated ORC technical paper, they are to file and serve an annotated copy of the paper succinctly indicating the matter in issue **two (2) working days** prior to the mediation.

[11] The Council's Position paper in most instances will form the agenda for the mediation. Unless otherwise agreed, individual points of relief will be mediated (and any relevant matters will be addressed) in the order set out in the Council's Position paper.

Planning towards a hearing

[12] Parties are reminded that even if disputed PC8 topics are resolved at mediation a hearing will still be required, albeit the matters in issue will have narrowed or settled.³ In the event of a full hearing being required the parties are further reminded of the timetabling directions for a pre-hearing conference, evidence timetable and hearing dates given in the court's 21 April 2021 Minute.



R M Dunlop
Deputy Environment Commissioner

Issued: 27 May 2021



³ Environment Court Minute 'Timetable directions, mediation and expert conferencing' dated 21 April 2021 at [9].