

**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 7: 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-127)

Applicant

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**MINUTE OF THE ENVIRONMENT COURT  
COMMUNITY WATER SUPPLIES  
(23 July 2021)**

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[1] This Minute is released for the purpose of case management and addresses an exception sought to the policies on duration of consents for community water supplies.

[2] By way of general comment, it is always preferable that the court be left to consider a case for an exception to proposed policies with a suitable set of provisions in front of it. As indicated in court, we have concerns with the drafting of a proposed RDA rule for community water supplies.<sup>1</sup>

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<sup>1</sup> We refer here to the drafts attached to Ms Irving's closing (both rules) and Mr Maw's closing submission (Rule 10A.3.1A.2) and also the draft attached to the supplementary evidence of Mr Twose dated 12 May 2021 (Rule 10A.3.1A.2).



[3] Rather than issue an interim decision directing further work be done, we have drafted a restricted discretionary activity rule for the parties' consideration.

[4] In doing so, this is not to indicate that a decision has been made to grant the exception sought; there are parties that oppose this outcome and the court has yet to consider their views. Further, the court has not yet satisfied itself that the proposed rule is within the ambit of the plan change.

[5] The tenor of the rule is to address on the scale and significance of the effects of community water supply activities on the environment while maintaining continuity of supply for the likely term of a future land and water plan.

[6] Parties are to note that the rule addresses replacement consents only. If the court decides to open the rule to new activities, then we will address the appropriate amendments.

### **Direction**

[7] I direct that by **Friday 30 July 2021**:

- (a) interested parties, having conferred with counsel and their planning witnesses, are to file a joint memorandum responding to the court's proposed provisions, suggesting amendments (if required);
- (b) parties are to confirm that if PC7 is approved there is scope for the amendments proposed by the court or, if there is no scope, parties are to address the application of s 293 of the Act.

  
**J E Borthwick**  
**Environment Judge**  
Issued: 23 July 2021



## Attachment A

### **New Restricted Discretionary Activity Rule for replacement consents for specified community water supplies for consents expiring prior to 31 December 2035**

Despite any other rule or rules in this Plan where the take and use of water is for a community water supply listed in Schedule X:

- (a) any activity that is currently authorised under a Deemed Permit; or
- (b) the take and use of surface water (including groundwater considered as surface water under policy 6.4.1A (a), (b) and (c) of this Plan) that is currently authorised by an existing water permit where that water permit expires prior to 31 December 2025;

is a **restricted discretionary** activity providing the following conditions are met:

- (i) The applicant seeks a consent duration that ends no later than 31 December 2035;
- (ii) The activity meets conditions (ii), (v) and (vii) of Rule 10A.3.1.1; and
- (iii) The rate of take and the volume of water sought is within the existing consented rate of take and volumes; and
- (iv) [Placeholder: Priorities].

The Council will restrict its discretion to the following matters:

- (a) The extent to which there is a need to provide for population growth within the term of the consent informed by a comprehensive assessment of existing and future demand for water, including any assessments required under the National Policy Statement on Urban Development 2020, or undertaken under the Local Government Act 2002 such as in a long-term plan, growth strategy or spatial plan;
- (b) The extent to which the supply is used for purposes other than drinking water; and
- (c) How the water supply system is designed and managed to minimise water losses as far as practicable; and
- (d) Water conservation measures to increase the water use efficiency and reduce water demand by the permit holder and by the end users supplied; and

- (e) Alternative methods of water supply for uses such as irrigating gardens, reserves and parks through rainwater harvesting and greywater recycling; and
- (f) The collection and storage of rainwater and the use of reservoirs to reduce the demand for the take and use of water when there are likely to be constraints on its availability; and
- (g) The procedures in a water management plan to secure the outcomes in (b)-(f); and
- (h) Any existing consent conditions concerning operating procedures administered through a water allocation committee that exists for the catchment; and
- (i) Any other conditions on the expiring permit to be replaced, where those matters are not otherwise addressed by the entry conditions of this rule or matters of discretion; and
- (j) [Placeholder: Priorities]
- (k) Review conditions; and
- (l) Compliance monitoring; and
- (m) The point and method of measurement and the method for transmitting recorded data to Council.

In this rule **drinking water** means water intended to be used for human consumption, including water intended to be used for food preparation, utensil washing, and oral or other personal hygiene.

#### **Schedule X Community Water Supplies**

<b>Infrastructure</b>	<b>Approximate Location</b>
<b>Central Otago District Council</b>	
Alexandra/Clyde CWS (Lake Dunstan CWS)	(TBC)
Cromwell/Pisa Moorings CWS	(TBC)
Omakau CWS	(TBC)
<b>Queenstown Lakes District Council</b>	
Luggate CWS	(TBC)
Wanaka/Albert Town CWS	(TBC)
Cardrona CWS	(TBC)

**New Definition (Source: National Planning Standards)**

**Drinking water** means water intended to be used for human consumption; and includes water intended to be used for food preparation, utensil washing, and oral or other personal hygiene.



DRAFT