

**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 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)

BETWEEN OTAGO REGIONAL COUNCIL

(ENV-2020-CHC-128)

Applicant

**MINUTE OF THE ENVIRONMENT COURT
PLAN CHANGE 1 AND PLAN CHANGE 8**

(27 August 2021)

Introduction

[1] This Minute is released for the purpose of case management to mediation of Plan Change 1 (PC1) and Plan Change 8 (PC8).

[2] The court is aware that mediation has been scheduled for a number of topics arising from submissions on ORC PC1 and Policy 10.4.2 in Part H of PC8 on 6 and 7 September 2021.

[3] The court is also aware that the parties, or at least the ORC, has signalled a willingness that mediation proceed by AVL in the event that we remain in Level 4



of the COVID lockdown or some other level that limits attendance in person. To this end on 25 August 2021 the Council circulated to the parties, without prejudice, background position papers with its preliminary position on the matters in dispute.

[4] While it is commendable that the parties wish to continue to progress a resolution of these submission points, the court has two overriding concerns in relation to mediation by AVL in this instance:

- (a) the need to ensure access to justice by all parties; and
- (b) the logistics of conducting a mediation by ZOOM, or a similar platform, in a manner that is logistically feasible, accessible and fair to all participants.

[5] There are a number of parties to each of the submission points that are scheduled for mediation. The court anticipates that there will be more than one, and possibly up to three persons who will be participating for each of the parties.

[6] This presents potential logistical difficulties where mediation is to occur via a platform such as ZOOM, or similar, including if the parties comprise groups of individuals who wish to talk in confidence at breakout sessions. Also, the intended number of mediation participants is not known at this point. The court is mindful that with as many as 8 – 10 parties there is the potential for participant numbers to challenge or exceed the practical limitations of an AVL platform.

[7] The court is mindful that at present, participation in the mediation is a mandatory requirement. However, the court wishes to be satisfied that all participants have the requisite technical equipment, are agreeable to mediate in this manner and would not be disadvantaged.

[8] As stated, it is commendable the parties are willing to keep making progress in resolving the appeals which is consistent with the court's wish that the proceedings do not drift. The court's overriding concern, however, is to ensure

access to justice is provided to all parties involved in these proceedings.

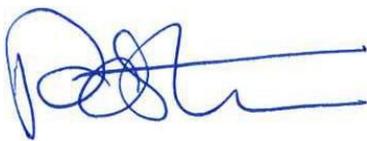
[9] If any party considers that it will be disadvantaged, the scheduled dates will be vacated, and mediation will be rescheduled when parties are able to participate in person.

Directions

[10] Accordingly, I direct that:

- (a) all parties are to inform the court of their ability and willingness to participate in mediation, all things being considered, and that notice should be provided to Karina Kelly (Karina.Kelly@justice.govt.nz) by **Tuesday 31 August 2021**; and
- (b) unless previously advised through the court's Mediation Attendance form, all parties are to advise Karina Kelly by the same date the names of persons they intend participate in each mediation topic so that total numbers and the logistical feasibility of proceeding by AVL can be determined..

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



P A Steven
Environment Judge

Issued: 27 August 2021