

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY**

**I TE KŌTI TAIAO O AOTEAROA
ŌTAUTAHI ROHE**

ENV-2020-CHC-128

UNDER the Resource Management Act 1991 (RMA)

IN THE MATTER of the Omnibus Plan Change - Plan Change 8, being part of a proposal of national significance directed by the Minister for the Environment to be referred to the Environment Court under section 142(2)(b) of the RMA

AND

IN THE MATTER of an application under section 149T of the RMA

OTAGO REGIONAL COUNCIL

Applicant

**MEMORANDUM OF COUNSEL ON BEHALF OF THE OTAGO REGIONAL
COUNCIL**
6 September 2021

Judicial Officer: Judge Steven

Applicant's Solicitor
PO Box 4341 CHRISTCHURCH 8140
DX WX11179
Tel +64 3 379 7622
Fax +64 379 2467

WYNNWILLIAMS

Solicitor: L F de Latour/ M A Mehlhopt
(lucy.delatour@wynnwilliams.co.nz /
michelle.mehlhopt@wynnwilliams.co.nz)

MAY IT PLEASE THE COURT

- 1 This Memorandum of Counsel is filed on behalf of the Otago Regional Council (**Council**) in response to the directions in the Environment Court's Minute dated 1 September 2021 at paragraph [5] regarding mediation of the urban provisions of Plan Change 8 (**PC8**) currently scheduled to occur on 4 and 5 October 2021.
- 2 The Council is willing and able to attend mediation in relation to the PC8 urban provisions by AVL in the event that COVID alert levels restrict attendance in person. However, the Council agrees with the Court's tentative position that it will be difficult to conduct mediation effectively by AVL if all 17 parties and their advisors would be participating remotely.
- 3 Whilst there may be difficulty in the mediation proceeding if all parties are subject to COVID alert level restrictions that mean in person attendance is not possible, there is the possibility that by the beginning of October restrictions may be lifted for some parts of the country.
- 4 Counsel notes in the event that the South Island (or some parts of the country) moves to Alert Level 2 whilst Auckland or other parts of New Zealand remain in Alert Level 4 or 3, that there may be the possibility of a hybrid mediation of in person and AVL attendance occurring. For example, if the South Island moves to Alert Level 2 and Court protocols permit mediation attendees gathering in Dunedin, those persons permitted to travel could attend in person (with appropriate protocols e.g. social distancing). Any other attendees restricted from regional travel at Alert Level 3 or 4 could attend by AVL. The Council appreciates that the question of whether such form of mediation could proceed would need to be revisited closer to the time of mediation, depending on the Alert Level requirements and the number of attendees that would be participating remotely.
- 5 If it becomes clear the mediation cannot proceed on 4 and 5 October 2021, either in person or by AVL (or a hybrid of the two), the Council agrees that a reserve day for the mediation to be conducted in person will need to be scheduled.

Dated this 6th day of September 2021



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L F de Latour

Counsel for Otago Regional Council