



## THE ENVIRONMENT COURT OF NEW ZEALAND

### NOTICE OF EXPERT WITNESS CONFERENCES

Expert witness conferencing has been arranged for witnesses giving evidence in relation to Policy 30 and Rule 78 on the Southland Water and Land Plan Water (Tranche 1). The conferences will take place as follows:

<b>TOPIC</b>	Wording on the Provisions	Section 32 AA analysis
<b>DATE</b>	Monday, 15 May 2023	Thursday, 18 May 2023
<b>TIME</b>	10:00 AM	10:00 AM
<b>VENUE</b>	Via Microsoft Teams	

The purpose of the expert witness conferencing is to enhance the efficiency of the court hearing process by providing for expert witnesses to confer and identify the issues on which they agree, with reasons. They are also to clearly identify the issues on which they do not agree and give reasons for their disagreement. This will enable the court to focus primarily on matters that remain in dispute, while understanding the basis for agreed matters.

#### **DIRECTIONS**

Counsel are to provide their respective experts with a copy of the Environment Court's Expert Witnesses Code of Conduct and Protocol for Expert Witness Conferences (Environment Court Practice Note 2023) and to brief them on their responsibilities under these. Particular attention is to be drawn to those parts which require experts to express their views independent of counsel and the parties who have engaged them.

Experts are to be provided with all relevant application and appeal documentation updated as appropriate, and pre-circulated evidence (if available) and reports necessary to enable them to thoroughly understand the issues in the proceeding.

Where the case managing Judge directs that expert conferencing is to take place on the basis of "will say" briefs exchanged prior to conferencing, these briefs should, as a minimum, set out the key facts and assumptions relevant to the experts' field of expertise, identify the methodology and standards used in arriving at opinions and clearly explain the opinions arrived at. If appropriate a witness may provide a copy of evidence presented to a first instance hearing as a "will say" brief on the assumption that the evidence/opinion remains the same.

Counsel are to liaise with conferencing experts to prepare a conference agenda addressing the key issues identified and pre-circulate it in electronic form to all conference participants, including the facilitator. Any relevant Joint Statements from related or prior expert conferences are to be provided in electronic form.

Counsel are to ensure that all documentation referred to above is with the experts and the facilitator at least **5 days prior** to the date of each conference.

The Court has a preference for all expert conferencing to be "face to face". Where exceptional circumstances make this difficult other formats may be used, such as telephone or video conferencing, with the approval of the facilitator.

Counsel are to liaise on the provision of a suitable recorder to attend the conference and prepare the Joint Witness Statement under the direction of the experts. For small conferences (2 - 3 experts) this may be one of the experts, but it is preferable that a non-participant is made available for all conferences. Recorders are to be supplied with the necessary technical equipment, including a laptop computer and preferably a projector and screen (or smart board) in order to ensure efficient recording of agreed wording for the Statement.

The Joint Witness Statement agreed from the conference will identify the issues, both agreed and not agreed, accompanied by the experts' reasoning set out as succinctly as the circumstances allow. The Joint Statement should be completed, signed and dated on the day or as soon as possible thereafter. Counsel are to arrange for one of their number to be responsible for circulation of the joint statement to the parties, the facilitator and the Court.

Participants are to be advised by counsel that expert witness conferencing is privileged except for the signed joint witness statement prepared by the experts following the conference, which will be part of the public record.

### **CORRESPONDENCE AND ENQUIRIES**

Information on the Environment Court and the Court's Practice Notes which serve as a guide, are available at [www.justice.govt.nz/courts/environment-court](http://www.justice.govt.nz/courts/environment-court). Please direct to me all correspondence or enquiries about this notice or the procedures at the conferencing. If you have any special requirements please advise me, preferably well in advance, so that they can be attended to.

**Dated at Christchurch Environment Court Registry on 1 May 2023**



**Karina Kelly**

**Mediation Manager**

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Christchurch

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## Attachment A – List of Witnesses

<b>Party</b>	<b>Witness</b>	<b>Expertise</b>
SRC	Matthew McCallum-Clark	planning
SRC	Greg Burrell	ecology
Ballance	Sue Ruston	planning
Director General Conservation	Linda Kirk	planning
Fish and Game / Forest and Bird	Ben Farrell	planning
Fish and Game / Forest and Bird	Kate McArthur	ecology
Ngā Rūnanga	Treena Davidson	planning
Ngā Rūnanga	Ailsa Cain	culture and policy
Ngā Rūnanga	Jane Kitson	environmental science/ mātauranga Māori