

# Otago Regional Council

## Proposed Otago Regional Policy Statement 2021

### FIRST MINUTE AND DIRECTIONS OF HEARINGS PANEL

On preparation for hearing of submissions

#### Minute 1

#### INTRODUCTION

On 17 December 2021, the then Chief Freshwater Commissioner Professor Peter Skelton CNZM appointed 4 of the 5 persons to the hearings panel for the Proposed Otago Regional Policy Statement (“PORPS”) from 17 January 2022, namely myself as Chair, Ron Crosby as the other Freshwater Commissioner member, and the two Otago Regional Council (“ORC”) nominees, Bianca Sullivan and Allan Cubitt. The fifth member, tangata whenua nominee Rauru Kirikiri was unable to be appointed at that time, so after I took office as Chief Freshwater Commissioner, I appointed him on 17 January 2022.

The panel members are therefore:

- Judge Laurie Newhook (Chair)
- Ron Crosby
- Bianca Sullivan
- Allan Cubitt
- Rauru Kirikiri

It is the task of the panel under section 80A(5) of the Resource Management Act 1991 (“RMA”) to conduct the public hearing of submissions in accordance with its powers set out in Part 4 of Schedule 1 of the Resource Management Act (RMA) , and subsequently make recommendations to the ORC on this freshwater planning instrument.

## NOTICE OF HEARING

Notice is hereby given that the hearing into the PORPS and the submissions and further submissions received by the Council, will commence on Monday 30 May 2022 at 10am, at a venue to be advised soon (most likely Dunedin), and proceed throughout that week, and thereafter every second week until concluded around 7 October 2022.

The starting time on the first day of each hearing week will be 10am, and on subsequent days in each week, 9.30am.

The venue may change in any week after the first; as to which the panel will endeavour to provide parties with as much notice as possible in all circumstances.

At the time of issuing this notice, the panel hopes all hearings will be face-to-face, but it acknowledges the uncertainties around the Covid-19 pandemic in coming weeks and months, and needs to warn parties that remote electronic means of hearing may need to be employed. If that occurs in any given hearing week, the panel will endeavour to provide parties with as much notice as possible, and the Council will work with all involved to put fair means of access and attendance in place.

## DIRECTIONS

### Website

1. All information relevant to the hearings will be made available on the relevant page of the council's website:

<https://www.orc.govt.nz/proposedrps21hearing>

Submitters who wish to be heard are advised to view the information on the webpage at all stages of the process pre- and during the hearings.

## Service on the council

2. Any evidence or information required by this Minute, and any memorandum or application to the hearings panel, may be lodged by one of the following means:
  - By email to Anita Dawe<sup>1</sup> or later appointed hearings administrator at [hearingsadministrator@orc.govt.nz](mailto:hearingsadministrator@orc.govt.nz)
  - In writing, addressed to Otago Regional Council, Private Bag 1954, Dunedin 9054, marked for attention of the of the Hearings Administrator (PORPS); or
  - By delivery to Otago Regional Council at Philip Laing House, 144 Rattray Street, Dunedin 9016 for the attention of the Hearing Administrator (PORPS).

## Section 42A report

3. A section 42A report will be made available on the above webpage on and from 25 March 2022.

## Confirmation of wish to be heard

4. Submitters who wish to be heard at the public hearings are to confirm by email to the Hearings Administrator their intention no later than 5pm on 29 April 2022, and to confirm at that time:
  - The time allocation they seek to speak to their submission and/or call evidence (as to which they must consider the guidance about hearing procedures below);
  - Whether they wish to address the hearings in te reo;
  - Whether they have special requests (eg, projection equipment and screen);
  - Whether they intend to call expert evidence (including any planning evidence), and the name(s) of their expert witnesses.

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<sup>1</sup> Anita Dawe is Policy Manager for ORC and is the panel's prime administrative support as at the date of this Minute. She will soon appoint a dedicated hearings administrator for the PORPS hearings. Her email is [anita.dawe@orc.govt.nz](mailto:anita.dawe@orc.govt.nz).

## Hearing plan

5. The hearing plan is directed now but may be subject to change depending on the outcome of the recent High Court hearing concerning the status of the PORPS as a freshwater instrument.
6. The panel will soon decide whether all hearings will be in Dunedin, or whether other centres will host hearings. This decision will focus on the spread of submitters geographically, and topics.
7. A hearing plan will be emailed to submitters and posted on the webpage showing likely hearing date, sequence and time allocation granted to each submitter. The hearing plan may be subject to change from time to time.
8. Time allocations will be set in light of the content of each submission, evidence (if any), and the time estimate provided as required above. Given that all evidence will have been pre-read by the panel, the times allocated for speaking will be quite short (often a matter of a few minutes) plus any time needed to address new matters arising; followed by any cross-examination allowed by the panel and questions from the panel itself.

## Lodging of evidence

9. All evidence is to be focussed, relevant, and as succinct as possible. Parties need to be aware that good messages can get lost in evidence that does not have these qualities.
10. Evidence is to be divided out into separate statements on a chapter-by-chapter basis except in the case of whole-of-PORPS submissions.
11. To allow for timely lodging of any rebuttal evidence, and to allow the panel to read submissions and evidence prior to the hearing, submitters who intend to call or give evidence are to provide a written statement of the evidence of each witness in accordance with the following timetable:
  - (a) *All evidence in chief by 5pm on 14 April 2022*
  - (b) *All evidence in chief posted on the webpage by 22 April 2022*
  - (c) *All rebuttal evidence by 5pm on 13 May 2022*
  - (d) *All rebuttal evidence posted on the webpage by 20 May 2022*

## Hearing timetable

12. The hearings will commence on 30 May 2022 and continue every second week until approximately 7 October 2022, subject to the overall volume of business.

13. It is intended that submitters' evidence to the hearings will conclude by approximately 12 August 2022.
14. In that event, the council will lodge its reply evidence and amended draft PORPS provisions by 9 September 2022, to be posted on the webpage by 16 September 2022.
15. The parties' cases and later the council's replies, will proceed on a chapter-by-chapter basis (inclusive of related appendices and maps) to be determined by the panel in advance of the hearings (the panel appreciates that submitters may wish to present concerning more than one topic, but rather than take matters out of turn concerning this multi-faceted instrument, such parties will be encouraged to fit into the chapter-by-chapter approach, appearing by remote means on some occasions).
16. The panel will proceed to hear the council's reply evidence, the parties' closing submissions, and the council's closing submissions between 26 September and 7 October 2022.

#### Hearing procedure

17. Attention is drawn to clause 48 of Schedule 1 RMA part 4, concerning procedures of freshwater hearings panels. In summary, the panel is to regulate its proceedings in a manner that is appropriate and fair in the circumstances; keep a full record of the proceedings, and permit, regulate or prohibit cross-examination. Cross-examination can only be undertaken by leave of the panel. Numbers of parties or their representatives questioning any given witness may be limited, if leave is granted at all.
18. Any applications for leave to cross-examine any witness must be lodged with the panel via the hearing administrator in writing by 5pm on 25 May 2022. The application must specify with precision the topic(s) or issue(s) sought to be the subject of questions and the time sought to be allocated for the purpose.
19. Attention is further drawn to clause 40 ("Powers of freshwater hearings panel"), clause 41 ("Pre-hearing meetings"), clause 42 ("Council's role"), clause 43 ("Conference of experts"), clause 44 ("Alternative dispute resolution"), and clauses 45 and 46 about panels commissioning reports and appointing special advisors and "friends of submitters".
20. Such matters will be the subject of detailed attention and timetabling as necessary from time to time before and during the hearings, as the panel gains familiarity with the case materials.

21. The panel can indicate at this time that it favours conferencing of experts over cross-examination of them, to assist it to resolve scientific and technical issues as efficiently as possible.
22. By 5pm on 29 April 2022, parties are to advise the hearings panel in writing via the hearings administrator if they consider expert conferencing is required, and if so on what topics.
23. Parties may at any time request the panel to refer any matter to mediation, addressing for the panel the detailed matters set out in clause 44 of Part 4. Ideally such requests will be made well in advance of the hearing on the topic(s) so as to allow time for the session(s) to take place before such hearing, and for re-scheduling of hearing topics with fair advance notice.
24. An audio recording of the hearings will be made by council staff and will be available on the webpage. Excerpts of the recording may be transcribed at the request of the panel, or at the request of a submitter if agreed to by the panel.

For the panel,

Judge Laurie Newhook,  
Chair and Chief Freshwater Commissioner.

28 February 2022.