

**BEFORE THE FRESHWATER HEARING PANEL CONVENED BY THE CHIEF
FRESHWATER COMMISSIONER**

**AT DUNEDIN
KI ŌTEPOTI**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the proposed Otago Regional Policy Statement
2021

**Memorandum of Counsel for the Director-General of Conservation
Tumuaki Ahurei responding to 2nd Minute and Directions of Hearing Panel**

Dated 13 April 2022

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May it please the Freshwater Hearing Panel,

The following matters are respectfully put forward on behalf of the Director-General of Conservation Tumuaki Ahurei (the Director-General):

1. The Director-General has submitted and further submitted on the proposed Otago Regional Policy Statement 2021 (pORPS 2021).
2. The High Court proceedings will clearly impact the way in which submitters including the Director-General approach preparation of evidence for the pORPS 2021 hearings before the Freshwater Hearing Panel (Panel).
3. The Director-General's submission is premised on the whole of the pORPS being a freshwater planning instrument as resolved by the Otago Regional Council (ORC, Council) in June 2021.
4. Similarly, the Director-General's evidence for the Panel at hearing would look to cover Otago's land, freshwater, and marine and coastal domains and how these are best managed to integrate for te hauora o te taiao. This would look to also integrate mana whenua and iwi matters and be consistent with ki uta ki tai indeed ki uta ki tai ki moana.
5. It is unclear, for example, whether the ecosystems and biodiversity provisions could be dealt with separately from the domain chapters, or the domain chapters separately from the appendices – they must be interlinked.
6. The Director-General does not want the hearings delayed indefinitely. The proposal that the hearing could get underway in some form, before the High Court releases its decision, on topics clearly understood to relate to freshwater has some attraction.
7. However, this could lead to topics being dealt with piecemeal and further inefficiencies as evidence seeking to integrate management across the domains is relevant to all.
8. At this time the s42A report will not be available until the end of April, and the Council has sought this be delayed further.¹ That inevitably impacts on submitters' evidence preparation.

¹ Memorandum of Counsel for Otago Regional Council dated 21 March 2022 at paras 7-9 seeking two month delay in timetable

9. Given all these matters, the Director-General would prefer a further delay in the hearing timetable, with the Panel giving clearer directions on the topics for the hearings.
10. The delay may need to be until after the High Court decision is available. While this would put some pressure on timeframes, as identified by the Panel in its 2nd Minute, this should reduce inefficiencies in the hearing process which could be created by starting hearings on a basis which needs to be adjusted following the High Court decision.



P D Williams
Counsel for the Director-General