

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

**IN THE MATTER**

of the Proposed Otago Regional Policy  
Statement 2021

---

**MEMORANDUM on behalf of the WISE RESPONSE SOCIETY INC**

**April 4, 2022**

---

Dr. Hamish Rennie  
Associate Professor  
Department of Environmental Management  
Tel 3 423 0437 (Work)  
Email <Hamish.Rennie@lincoln.ac.nz>

## **MAY IT PLEASE THE COMMISSIONERS**

1. Our Wise Response Society Inc is a submitter to the Proposed Regional Policy Statement for Otago (pORPS).
2. This memorandum is a response from the Society to the Commissioners invitations for feedback in Minute 2 on preparation for the hearing of submissions.
3. Comments are limited to two key matters:
  - i. the make-up of any commission to hear those sections of the pORPS deemed not to be a freshwater instrument but instead for decisions under the traditional Schedule 1 processes
  - ii. to propose the inclusion of a specific step in the hearings process that would provide all parties with the opportunity to seek agreement on underlying assumptions and “common ground” before any of the various chapters and provisions of the pORPS are heard.
4. The second is not a matter in Minute 2 but which, if adopted, would affect the hearing programming.

### **Commission make-up and hearing of submissions**

5. Regarding i) above the Wise Response Society (the Society) would, in principle, oppose the same panel of commissioners established for freshwater process under s80A being used for the wider RPS aspects not deemed freshwater matters, as proffered in para 25 of the minute.
6. The criteria for appointments to a Freshwater Panel is narrower than that for a wider pORPS and if the same body could do the same task, then there would appear no point for the legislation have specific criteria for freshwater. That framework implies specialist knowledge is required and that same reasoning could be made for wider issues in the pORPS.
7. Accordingly, we consider this would establish a bad precedent. That the Commissioners in this particular hearing are all qualified and experienced would not alter that fact.
8. Second, the difficulty for the commissioners in operating two separate processes as one panel is not insurmountable but may make things more difficult as they try to weigh particular issues. There is a real risk that they will be influenced in terms of what

favours their goals in freshwater for which they are specifically qualified over those that might be better for other issues (e.g., estuaries, biodiversity or urban air quality).

9. Even if not in fact influenced in such a manner, there is a risk that they may be *perceived* to be biased toward freshwater over other issues where conflicts arise. The perception of bias would call into question the perceived legitimacy of the process as a whole.
10. An alternative approach that may minimise these difficulties would be a new panel appointed for the non-freshwater elements with at least some different membership, but operating as a combined hearing. This would enable a wider range of expertise and decisions to be made by the relevant panel members for the different instruments.
11. At the same time, it would achieve procedural efficiencies regarding the freshwater components as well as ensure that the breadth of expertise was present for the wider pORPS provisions.
12. Should that approach not be favoured, to avoid the risk to all parties of incurring unnecessary costs and administrative difficulties before the High Court Decision is known, we consider that postponement is essentially the only other option.

**A “seeking common ground” step in the hearings process**

13. Regarding ii) above, be it freshwater, top soil, marine ecosystems, mineral reserves or the atmosphere, the growing volume of evidence is that the global environment is in an increasingly parlous state and we have limited time to make amends. Otago is a subset of that global environment and so its destiny is inextricably intertwined with that of the rest of the planet.
14. This means that if Otago is to play its part in securing the future, nothing short of transformative change is required. But as long as underlying assumptions, understandings and values that make up our worldviews and that drive our current economic strategy are not part of the discussion, we cannot expect our response to be adequate.
15. **Thus, we seek a step at the start of this hearing process dedicated to identifying stakeholder values and what courses of action, based on evidence, are likely to best serve those values before specific policy proposals are reviewed.**

16. We believe such time spent up-front examining the contradictions and seeking common ground in both values and perceptions of the physical realities will help defuse many of the traditional areas of conflict and lead to quicker overall resolution and more widely accepted outcomes.
17. We need the majority to realize that ultimately, an ethical view based on real risks has to prevail for the world to continue to function as an economic entity. Devising a forum/process where all parties come to see that for themselves is the challenge.
18. More details regarding the purpose and rationale for such a session are provided in Appendix A

**Scope and timing**

19. The Freshwater Commission has an ability to run the hearing with some flexibility and have expressed a wish to narrow the issues in Minute 1. There is the scope to hold Pre-Hearing meetings as part of the Freshwater process (s41 of Schedule 1 RMA). However, we also note that paras 19 and 23 of Minute 1 identify other provisions that the Commission may consider more appropriate.
20. The fact that there may be delays in the process subject to the High Court declaration would appear to provide the opportunity to convene this additional discussion forum without losing time. It would also be addressing the assumptions behind the entire pORPS irrespective of the Court Decision.

Dated this 4th day of April 2022

## APPENDIX A

### PROPOSAL FOR THE INCLUSION OF A “SEEKING COMMON GROUND” STEP IN THE HEARINGS PROCESS

#### The issue

1. The strain we are having on our environment, both locally and globally has never been so great and is coming to a head – the most recent evidence being the warnings in the latest IPCC report on the state of our land and climate, AR6 Synthesis Report.
2. The report warns of a growing mismatch between rising temperatures and slow, fragmented efforts to adapt, leaving little time for catching up before “a brief and rapidly closing window of opportunity” is sealed shut.
3. “With fact upon fact, this report reveals how people and the planet are getting clobbered by climate change,” said UN Secretary-General António Guterres, calling the 3,500-page document “an atlas of human suffering” and an indictment of a “criminal” “abdication of leadership.”
4. The report finds “Increased heatwaves, droughts and floods are already exceeding plants’ and animals’ tolerance thresholds, driving mass mortalities in species such as trees and corals. These weather extremes are occurring simultaneously, causing cascading impacts that are increasingly difficult to manage. They have exposed millions of people to acute food and water insecurity, especially in Africa, Asia, Central and South America, on Small Islands and in the Arctic.
5. “To avoid mounting loss of life, biodiversity and infrastructure, ambitious, accelerated action is required to adapt to climate change, at the same time as making rapid, deep cuts in greenhouse gas emissions. So far, progress on adaptation is uneven and there are increasing gaps between action taken and what is needed to deal with the increasing risks”
6. IPCC promote a number of solutions including using bioenergy, fighting deforestation, restoring ecosystems, adopting sustainable land-use strategies, transforming global food systems, reducing meat consumption, fighting food waste.
7. The Zero Carbon Act and the work of the Climate Change Commission recognizes the need for a NZ response to these global trends. The Regional Policy Statement is a key instrument through which appropriate action can be assessed and adopted (through

agreement or direction) for climate, the role of renewable energy, marine and freshwater quality and a host of other pressing and deep-seated land and water management issues.

8. These include the depletion of fossil energy and nutrient reserves, reliable supply of inputs (such as fertilizer, chemicals and equipment), sustaining biodiversity, ecosystems and ecosystem services and the assumption of endless economic expansion.

### **Rationale**

9. With such deep structural problems underlying environmental degradation, nothing short of transformational change in activities causing them will be sufficient to avert the direst scenarios.
10. The manner in which policy is developed under the RMA involves the various parties putting forward their preferences. That means that parties come to hearings in order to defend positions that they believe are in their best interest.
11. As a result, parties start negotiations from predetermined positions of disagreement (preserving current practice), rather than from positions of agreement (seeking solutions together). The outcome is typically hard-won compromise delivering, at best, incremental gains or redress.
12. Since about 2014, our Society has been party to a series of different negotiation proceedings facilitated by the Council or the Environment Court. These have followed a similar pattern with protracted debate and eventually policy that is either feeble or out of date. This ineffectual cycle must be broken.
13. Parties' initial positions are based on values, beliefs and notions that they very likely genuinely consider will be in the best interests of themselves, their families, and explicitly or by implication, their community. All parties defend positions and policies which they consider will best satisfy such values, irrespective of how real those cultural understandings are.
14. Deep values, such as wanting a safe future for our children and fellow citizens, are widely held. If such values and objectives can be identified and shared, we are likely to discover that, ultimately, what we desire has much in common. In other words, we are seeking agreement on *what really matters for everyone*.

15. Given the environmental crisis, our Society considers that this policy statement will fall short of an adequate response unless we better align these values with deeper thinking about biophysical realities, false solutions, and concurrently, social and ecological justice.
16. If we can agree that these are better served by a given course of action, we stand a much better chance of an adequate response.

### **Proposal**

17. This memorandum is to ask the Commission if it may be possible to incorporate a step at the start of this hearing process dedicated to identifying common stakeholder values, real threats to those values and what courses of action are likely to best serve them before specific policy proposals are reviewed.
18. Given the complexity of this challenge, we expect the process would require at least two days with a follow up after further expert advice was available on key issues. With the deployment of recently developed interactive software it may be possible to do some of this on-line. Specialist facilitation advice would be required to confirm what is required and effective.
19. We anticipate an outcome or greater willingness to share inconvenience/opportunity as a result of the stimulated empathy and trust built during the process. It could be a literally transformational process if done properly, but that would need very careful planning and facilitation skills.
20. This step would greatly assist the development of a Policy Statement fit for our now rapidly evolving circumstances and in a most efficient and timely manner.
21. Recent work done in NZ on methodologies for addressing issues at this level may be able to be adapted for this proposal<sup>1</sup>.

### **Reference**

Jon Norberg, et al., *Failures to disagree are essential for environmental science to effectively influence policy development*. Ecology Letters

First published: 25 February 2022 <https://doi.org/10.1111/ele.13984>

---

<sup>1</sup> “How to Talk About the future of farming in Aotearoa New Zealand” <<https://bit.ly/3J25rJ3>>