

Otago Regional Council
Proposed Otago Regional Policy Statement 2021
(excluding parts determined to be a freshwater planning instrument)

DECISION OF HEARING COMMISSIONERS

on requests by Kai Tahu as to Hearing Arrangements

The Request

1. A Memorandum of Counsel dated 28 November 2022 has been filed on behalf of three submitting groups-
 - a. Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Hokonui Rūnanga (*Kāi Tahu ki Otago*),
 - b. Waihōpai Rūnaka, Te Rūnanga o Ōraka Aparima, Te Rūnanga o Awarua (*Ngāi Tahu ki Murihiku*), and
 - c. Te Rūnanga o Ngāi Tahu(collectively the three submitters being referred to as *Kāi Tahu*)
2. In that Memorandum Kai Tahu make the following requests:
 - i. that the Mana Whenua (MW) and Resource Management Issues of Significance to Iwi Authorities in the region (RMIA) chapters are the first chapters to be heard, that they be heard together, and that Kāi Tahu tikanga is recognised;
 - ii. leave is granted for some cultural experts to present only once but on more than one topic;
 - iii. leave is granted for cultural evidence at particular hearings to be presented orally, and for translation services to be made available during those hearings; and that
 - iv. there is the option to appear at hearings online.

Consideration

3. The reasons advanced in support of those requests are that Kai Tahu wish to open the hearings with a mihi whakatau; that it is in accord with Kai Tahu tikanga for those issues to be addressed first; and that the hearing of the chapters together would avoid unnecessary duplication of customary evidence which is relevant to each issue - resulting in a korowai of evidence addressing overarching issues.
4. It is stressed that many of the cultural experts giving evidence have heavy commitments and are often not charging for their services but have other paid employment they would forgo to be present. In addition, some will be needing to travel from outside Otago. Having them present at the commencement will mean later expert witnesses can refer to that korowai evidence.

5. Kai Tahu also seek to provide some cultural evidence in te reo Māori, which is their right. They seek to ensure appropriate translation services are provided and they have advised that Kai Tahu will inform the Hearings Administrator of the need for such services closer to the hearing time.
6. The Panel has been advised by ORC support staff that combined hearings as proposed for these cultural topics can be achieved without affecting the balance of the hearing schedule.
7. The Panel accepts the reasons advanced in the Memorandum, and the advice received from Council staff.

Decision

8. The Panel accepts that the requests made are in accordance with the statutory imperatives in s.39(2) (a) and (b) of the Resource Management Act 1991 which provide:

(2) In determining an appropriate procedure for the purposes of subsection (1), the authority shall—

(a) avoid unnecessary formality; and

(b) recognise tikanga Maori where appropriate, and receive evidence written or spoken in Maori and Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 shall apply accordingly; and ...

9. The Panel accepts that the combined hearing approach requested on these cultural issues will assist in reducing the amount of duplication of hearing time for the Panel, and travel and appearance time for Kai Tahu cultural experts.
10. Finally, Kai Tahu and their counsel are requested by the Panel to closely liaise with the Hearings Administrator and other relevant ORC staff on the practical arrangements needed to give effect to this determination. A start point of great assistance for translation issues for ORC staff and the Panel would be to have some certainty on which witnesses may intend speaking in te reo Māori, the subject matter they will be addressing, and the length of time likely to be engaged in te reo Māori presentations.

Ron Crosby for and on behalf of the Hearing Commissioners

30 November 2022