

BEFORE THE HEARINGS PANEL

IN THE MATTER

of the Proposed Otago Regional Policy Statement 2021

MEMORANDUM ON BEHALF OF KĀI TAHU
28 November 2022

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Introduction

1. This memorandum is on behalf of Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Hokonui Rūnanga (**Kāi Tahu ki Otago**),¹ Waihōpai Rūnaka, Te Rūnanga o Ōraka Aparima, Te Rūnanga o Awarua (**Ngāi Tahu ki Murihiku**),² and Te Rūnanga o Ngāi Tahu³ (collectively the three submitters are referred to as **Kāi Tahu**).
2. This memorandum addresses matters raised in the Hearings Panel's Minute 1, dated 3 October 2022, regarding the hearing process for the proposed Otago Regional Policy Statement (**PORPS**) (excluding the freshwater planning instrument). Kāi Tahu respectfully seek leave and directions relating to the hearing order and presentation of evidence.

Hearing Order and Location

3. Otago Regional Council (**ORC**) and Kāi Tahu have worked together on many aspects of the PORPS. In particular, the Mana Whenua chapter (MW) and chapter identifying Resource Management issues of significance to Iwi Authorities in the region (RMIA) are of critical importance Kāi Tahu:
 - (a) The MW chapter provides direction as to how the relationship of mana whenua to te taiao (natural environment) should be provided for, how rangatiratanga should be recognised and how kaitiakitanga should be enabled. It includes an overview of Kāi Tahu concepts, values, and resources of significance, and objectives and policies setting out how rangatiratanga and kaitiakitanga in regard to these matters are to be provided for.
 - (b) The RMIA chapter sets out the issues of particular significance to Kāi Tahu as mana whenua in the Otago region. The issues relate directly to the concepts, values and resources of significance to Kāi Tahu that are identified and described in the MW chapter.
4. Kāi Tahu seek that the MW and RMIA chapters be heard together, given the significant overlap and complementary issues they cover. The separation of these two parts in the PORPS is a consequence of the requirements in the National Planning Standards, but it

¹ Submitter 00226.

² Submitter 00223.

³ Submitter 00234.

would be impractical to hear them separately. Hearing these chapters together would also avoid unnecessary duplication of evidence and submissions, which in turn would assist the Hearings Panel in its decision-making.

5. Kāi Tahu also seek that the hearing for the MW and RMIA chapters be held as the first PORPS hearing and begin with a mihi whakatau recognising Kāi Tahu tikanga. Hearing these chapters first will not prejudice other parties, and appropriately recognises the partnership between ORC and mana whenua.

Presentation of evidence

6. At paragraph 6 of Minute 1 the Panel directed parties to make an application for leave if they wished to be heard only once throughout the hearing process but on more than one topic. Generally, Kāi Tahu will present its case on a chapter-by-chapter basis. However, and while we appreciate the Panel does not encourage the approach, Kāi Tahu seek leave for some of their cultural experts to present once on more than one topic. The grounds for this application are:

- (a) Kāi Tahu wish to present their evidence in a way that reflects te ao Māori. Kāi Tahu cultural experts will present a korowai (cloak) of cultural evidence at one of the earlier hearings, addressing the overarching issues. That evidence is best considered holistically, consistent with the korowai approach, as the evidence of different witnesses will interweave. That would also assist with later hearings, where some of the cultural experts would refer back to their earlier evidence and speak to discrete topics and detailed provisions. This approach aligns with the request for the MW and RMIA chapters to be heard together and at the beginning of the hearing.
- (b) By nature of their particular expertise and mātauranga, Kāi Tahu cultural witnesses are often severely time-constrained, and allowing them to present their evidence comprehensively will limit the impact on them personally. Many of these experts do not charge for their services and have other paid employment they must attend to.
- (c) Some experts will be travelling from outside of Otago, which can have a significant impact, especially given the reasons in (b).
- (d) Kāi Tahu will have other experts, such as planners, attending the later hearing topics to address specific submission points of Kāi Tahu. Those experts would be

likely to cross-refer to the earlier korowai of cultural evidence, limiting the need for the cultural witnesses to be recalled.

7. If the Panel agrees to the MW and RMIA chapters being heard together, the korowai of cultural evidence would be presented at that hearing.
8. Kāi Tahu has provided all of their written evidence in English, including the vast majority of its cultural experts' evidence. However, cultural witnesses for certain hearings have requested to present their evidence orally in te reo Māori only, consistent with their tikanga. Accordingly, Kāi Tahu seek that appropriate arrangements are made for translation services for those hearings, and for leave dispensing with the need to provide written statements of evidence. Kāi Tahu will be able to inform the Hearings Administrator which hearing topics this would be for once the notice of hearing is provided.
9. In addition, Kāi Tahu ask that parties are able to appear at hearings online. While Kāi Tahu are likely to attend many hearings in person, it would be helpful to preserve the option to attend some hearings online, particularly where Kāi Tahu have only one or two discrete submission points on a particular chapter. The option of appearing online would assist in achieving a more efficient, less resource intensive, hearing process. In our opinion, this option makes sense given:
 - (a) the large number of hearing topics;
 - (b) the likelihood of experts and counsel being located outside the Otago region;
 - (c) s 39AA of the Resource Management Act 1991, which permits the making of a direction that a hearing, or part thereof, may be conducted using remote access facilities where it is appropriate and fair to do so, and where the necessary facilities exist; and
 - (d) the availability and ease of technology, particularly in light of hearings that have been successfully held under pandemic conditions using audiovisual links.

Directions / Leave Sought

10. Kāi Tahu respectfully seek that the following directions:
 - (a) that the MW and RMIA chapters are the first chapters to be heard, that they be heard together, and that Kāi Tahu tikanga is recognised;

- (b) leave is granted for some cultural experts to present only once but on more than one topic;
- (c) 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
- (d) there is the option to appear at hearings online.



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