

Otago Regional Council

Proposed Otago Regional Policy Statement 2021

(Freshwater parts)

Minute 4

FURTHER AMENDMENT TO TIMETABLE FOR FRESHWATER HEARING & OTHER EVIDENTIAL ISSUES

1. On 10 May 2023, the Panel issued Minute 1 providing a date requiring all rebuttal evidence, including expert evidence, to have been lodged with ORC by 5 p.m. Friday 14 July 2023.
2. It has been brought to our attention that the original date set falls upon Matariki. As Matariki is now a public holiday it will no longer be a working day under the Resource Management Act (RMA). The Panel therefore extends the date for lodging rebuttal evidence to 5pm Monday, 17 July 2023.
3. Counsel for Meridian Energy Limited Mr. J. Maassen has filed a Memorandum dated 12 June, 2023 advising of an intent to rely in the Freshwater hearing process upon evidence lodged in the non-freshwater hearing process, given that the Hearing Panel membership is common for both processes. That helpfully raises an issue which may be taxing the minds of other submitters also.
4. The Hearing Panel is mindful of the RMA imperative in s. 18A of the RMA:

18A Procedural principles

Every person exercising powers and performing functions under this Act must take all practicable steps to—

(a) use timely, efficient, consistent, and cost-effective processes that are proportionate to the functions or powers being performed or exercised

...

5. That imperative of timeliness, efficiency and cost-effectiveness is also reflected in cl. 48 of Part 4 of the First Schedule as to Freshwater hearing processes:

48 Procedures of freshwater hearings panel

(1) Every freshwater hearings panel must—

(a) regulate its own proceedings in a manner that is appropriate and fair in the circumstances; and

6. The Panel has reflected on how efficiency and cost effectiveness for all involved, ORC and submitters and the Hearings Panel, can best be achieved in a situation where the same Panel has already read the same evidence which a submitter may wish to advance in whole or in

part. There are obvious savings to be made in time, effort and cost if repetition is kept to a minimum.

7. The Panel perceives three possible concerns, given that at law it will have to prepare two separate reports for the ORC.
8. The following directions are, therefore, aimed at achieving an effective, non-repetitive physical re-filing process:
 - (i) It must be for submitters to identify evidence of which witnesses they are relying on in the freshwater hearing process, and in particular which parts or paragraphs of that witness' evidence they wish to have taken into account in the freshwater process. That can be done by Memorandum by 28 June, 2023. That Memorandum will act as the formal re-filing advice and will be uploaded on the ORC website.
 - (ii) The Panel (or other submitters, if they obtain leave to cross-examine) may wish to question any such witness on relevant freshwater aspects of the evidence of a witness which was not able to be done in the non-freshwater process. If that is the case the Panel will issue a Minute as to which witnesses need to be questioned, and the submitter will need to make that witness available in person or by video link if they wish that evidence to be accorded any weight.
 - (iii) If a witness just wishes to add some relevant freshwater parts to their evidence, it should be lodged in a complete amended form, with additions highlighted by shading so that the Panel is reading the additions in context with surrounding evidence.

Dated the 22 day of June, 2023.

Ron Crosby
Chair of the Hearings Panel