

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

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**IN THE MATTER**

of the Proposed Otago Regional Policy Statement  
2021

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**MEMORANDUM ON BEHALF OF THE OTAGO REGIONAL COUNCIL**

Dated 8 July 2022

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## MEMORANDUM ON BEHALF OF THE OTAGO REGIONAL COUNCIL

**May it please the Commissioners:**

### **Introduction**

- 1 In Minute 3 of the Panel dated 14 April 2022 a direction was made: “*We direct also that parties make use of the extra time created by the delay, to engage in meaningful negotiations or other alternative dispute resolution to settle or at least narrow matters in dispute. We ask the council to lead that process.*”
- 2 There have been facilitated discussions between the Council and submitters since 13 June 2022. The discussions occurred on a without prejudice and confidential basis.
- 3 As a result of those discussions, the section 42A chapter authors consider that some changes to the text of proposed RPS are appropriate.
- 4 Where that is the case, the authors need to update their reports, by way of a supplementary statement of evidence, and make those updates available to the Panel and to submitters.
- 5 The submitters should not be required to complete and file their evidence until they have those updates and the opportunity to consider them.

### **Directions sought**

- 6 ORC therefore proposes timetable amendment as follows:
  - 6.1 Section 42A authors’ supplementary evidence be filed by 5pm 5 August 2022.
  - 6.2 All parties’ evidence in chief be filed by 5pm 2 September 2022.
  - 6.3 All evidence in chief to be posted on the Council website by 9 September 2022.
  - 6.4 All rebuttal evidence to be filed by 5pm 30 September 2022.
  - 6.5 All rebuttal evidence to be posted on the Council website by 7 October 2022.

- 6.6 Application for leave to cross-examine any witness to be filed by 5pm 14 October 2022.
- 6.7 Indication of expert conferencing to be filed by 5pm 14 October 2022.
- 6.8 Hearings to commence on 25 October 2022.

### **Other Updates**

- 7 In two instances (Urban Form and Development, and Energy, Infrastructure and Transport) the section 42A report authors (Kyle Balderston and Peter Stafford respectively) have left the employment of ORC. Those authors must (and will) be available at hearing to address matters arising from their original reports.
- 8 However, to enable the more recent process of facilitated discussions two additional experts (Marcus Langman for Energy, Infrastructure and transport, and Liz White for Urban Form and Development) have been engaged. They have participated in the discussions with submitters, considered the points raised and formed an opinion as to the extent to which change is supported. Those experts must (and will) provide the relevant supplementary evidence and be available at hearing to address any matters arising.
- 9 In some other respects discussions between ORC and submitters continue, the nature and scope of which remains without prejudice.
- 10 At the time of this memorandum no judgment has been received in the High Court declaratory judgment proceedings concerning the status of the pORPS as a freshwater instrument.

### **Submitter Views**

- 11 ORC circulated a proposed timetable amendment and the update regarding expert witnesses to all submitters by email on 6 July 2022 and asked that submitters advise any issues by 12pm Friday, 8 July 2022.
- 12 The timetable circulated was one week earlier than the dates above for each event.

- 13 The reason for this is that a section 42A chapter author with a significant part of the supplementary evidence responsibility has now fallen ill. ORC therefore considers it prudent to extend timetable dates by a further week.
- 14 I am informed by ORC that three responses were received to the email referred to in paragraph 11. All three responses were in support.



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Simon Anderson  
Counsel for Otago Regional Council  
8 July 2022