

Otago Regional Council  
Proposed Otago Regional Policy Statement 2021  
(Freshwater parts)

FIRST MINUTE AND DIRECTIONS OF THE FRESHWATER HEARINGS PANEL

On preparation for hearing of submissions

Minute 1

**Introduction**

1. On 3 May 2023, the Chief Freshwater Commissioner Judge Laurie Newhook appointed 4 persons as hearings panel for the Freshwater Parts of the Proposed Otago Regional Policy Statement (“PORPS”) from 10 May 2023.

The Panel members are therefore:

Ron Crosby (Chair)

Bianca Sullivan

Allan Cubitt

Rauru Kirikiri

2. It is the task of the panel under section 80A(5) of the Resource Management Act 1991 (“RMA”) to conduct the public hearing of submissions in accordance with its powers set out in Part 4 of Schedule 1 of the RMA, and subsequently to make recommendations to the ORC on the freshwater parts of the PORPS.

**INDICATIVE HEARING DATES**

3. At the time of issuing this Minute the Panel faces some uncertainties as to the possible length of hearing time required which arise from the following factors:
  - a. The number of witnesses proposed to be called, and the amount of evidence intended to be filed by submitters.
  - b. The issue of possible cross-examination.
4. Those two factors are addressed in the directions which follow.
5. Until those matters have been clarified the panel will be unable to settle on final hearing times and dates. However, on the basis of experience in the non-freshwater parts of the hearings, and the number of submissions, the Panel expects that one, or at most two, weeks of hearings is likely to be sufficient.

6. On that basis the Panel wishes to advise that the likely hearing dates will be:
  - a. Week commencing Monday 28 August, TO Thursday 31 August 2023
  - b. Week commencing Monday 4 September, 2023
7. The hearings will be held at the ORC Dunedin offices where the non-freshwater hearings were held, as it is set up for the recording function statutorily required by the freshwater hearing procedures.

#### **DIRECTIONS**

1. Website

All information relevant to the hearings will be made available on the relevant page of the Council's website which is:

[www.orc.govt.nz/fpirps](http://www.orc.govt.nz/fpirps)

2. Section 42A report

This report will be made available on the above website on Monday 29 May, 2023.

3. Requirements for those seeking to be heard

Submitters who have expressed a wish to be heard in their submission are to provide the following information by email to the Hearings Administrator no later than 5pm on Friday 2 June, 2023:

- i. The time allocation they seek to speak to their submission, and/or call evidence (as to which they will need to follow the directions which follow);
- ii. Whether they wish to address the hearings in te reo, either as to submissions or evidence;
- iii. Whether they have any other special requests (eg. Visual projections)
- iv. Whether they intend to call expert evidence, (including any planning evidence), and the name(s) of their expert witnesses

Given that all evidence will have been pre-read by the Panel, the times allocated for speaking will be confined as follows, (plus any time needed for questions from the Panel), unless special reasons are advanced by way of a written request for extra time which has been approved by the Panel:

- i. submitters and other lay witnesses – 15 minutes
- ii. expert witnesses – 30 minutes

Any requests as to extended hearing times must be made by request in writing through the Hearings Administrator contemporaneously with lodging evidence in chief and must be supported by reasons as to why extra time is requested.

4. Evidence timetable

- i. All evidence in chief, including expert evidence, to be lodged with ORC by 5pm Friday 23 June, 2023

- ii. Evidence in chief posted to website by Friday 30 June, 2023
- iii. All rebuttal evidence including expert evidence to be lodged with ORC by 5pm Friday 14 July, 2023
- iv. Rebuttal evidence posted to website by Friday 21 July, 2023

5. General hearings procedure

Clause 48 of Schedule 1 Part 4 of the RMA lays down a particular procedure for hearings by Freshwater Hearing Panels. It provides:

**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*
  - (b) *keep a full record of proceedings.*
- (2) *At a hearing, a freshwater hearings panel may—*
  - (a) *permit a party to question another party or witness:*
  - (b) *prohibit cross-examination:*
  - (c) *permit cross-examination at the request of a party but only if the panel is satisfied that it is in the interests of justice:*
  - (d) *regulate the conduct of any cross-examination.*

As cross-examination is only permitted if the Panel is satisfied that it is in the interests of justice, the Panel is of the view that particular special reasons would need to be advanced for such leave to be granted in the present type of proceedings relating to a regional policy statement. Subject to seeing the evidence advanced, the Panel finds it difficult to envisage how issues involving the interests of justice arise in such proceedings. Differences of opinion between experts do not normally raise such issues. That being the case, while applications for leave to cross-examine are not encouraged, if any submitter or ORC wishes to apply, such a request must be made to the Panel in the following manner:

- i. applications must be in writing and lodged with the Hearings Administrator by 5 pm Monday 26 July specifying which witness is sought to be cross-examined, and on behalf of which submitter.
- ii. the request must set out with precision the topics or issues upon which it is sought to cross-examine.
- iii. the request must specify the grounds advanced for asserting it is in the interests of justice for permission to cross-examine to be granted.
- iv. the length of time the cross-examination is proposed to take.

If any such request is made, the Panel will as promptly as practical issue a Minute either refusing permission, or if granting it, specifying on which topics or issues permission is granted, and the length of time allowed for the cross-examination.

6. Timetable for presentations of submission and evidence at hearings

The order of presentations at the hearings otherwise will be the same as that followed by the non-freshwater hearing process, (which most if not all submitters are likely to be familiar with by now from the non-freshwater hearings) i.e.:

- i. ORC opening and S.42A report presentation
- ii. Submitters' presentations and witnesses
- iii. ORC reply and s.42A report writer responses

(If possible the Panel will endeavour to allow the ORC report writers a reasonable amount of time to compose their responses after all submitters have been heard, but as primarily only one main chapter of the PORPS is involved the Panel cautions that time will be much shorter than has been the case with the non-freshwater parts of the PORPS.)

7. Communications

Any preliminary communications to the Panel are to be made through the Hearings Administrator whose contact details are:

hearingsadministrator@orc.govt.nz

Dated the 10 day of May, 2023

Ron Crosby

Chair of the Hearings Panel