

**Otago Regional Council
Dunedin City Council
DIRECTIONS OF THE COMMISSIONER
Minute 1**

Introduction

- [1] Pursuant to section 34A(1) of the Resource Management Act 1991 (RMA), the Otago Regional Council (ORC) and the Dunedin City Council (DCC) have jointly delegated to Independent Commissioner Rob van Voorthuysen the function of hearing submissions and deciding an application made by Port Otago Limited (Applicant) to undertake natural hazard protection works involving rock groynes and sand replenishment at Te Rauone Beach.

Hearing

- [2] The hearing is scheduled to commence on **Tuesday 15 December 2020 at 9.00am**.
- [3] The hearing will be held at a Dunedin venue yet to be confirmed.
- [4] The Hearing Administrator, ORC staff member Karen Bagnall, will be in contact with submitters who wish to be heard to arrange appearance times. Submitters will not be given precise times, but will be allocated to either a morning or afternoon session of the hearing.
- [5] The following directions relate to the hearing:
- (a) The order of appearance will be:
 - Applicant
 - Submitters in support
 - Submitters in opposition
 - Section 42A Report author(s)
 - Applicant's right of reply (which may be given at the hearing or in writing thereafter)
 - (b) Section 42A Reports¹ from ORC and DCC will be made available on or before **Tuesday 24 November 2020**, allowing the Applicant and submitters to have regard to their contents when preparing their evidence. It would be extremely helpful to the Commissioner if the Applicant and submitters could indicate in their evidence if they agree or disagree (with reasons) with the Section 42A Report authors' recommendations.
 - (c) Pursuant to section 41B(2) of the RMA, the Applicant is directed to provide their expert evidence to the Hearings Administrator no later than **2.00pm on Tuesday 1 December 2020**.
 - (d) If experts for the Applicant intend to base their evidence on technical reports that they authored, and which were included as part of the application, then the experts need not repeat material contained in those reports in their evidence. It will be sufficient for the evidence to cross-refer to that material.
 - (e) Pursuant to section 41B(3) of the RMA, submitters who intend to call expert evidence² in support of their submissions are directed to provide a written statement of that evidence to the Hearings Administrator no later than **2.00pm on Tuesday 8 December 2020**.
 - (f) If submitters intend to provide written evidence themselves, or have non-expert people appear on their behalf, then they are requested and strongly urged to also provide a written statement of that evidence to the Hearings Administrator no later than **2.00pm on Tuesday 8 December 2020**.
 - (g) If submitter evidence to be presented by themselves or non-expert people on their behalf is not provided to the Hearings Administrator by the above date, then those submitters should bring ten (10) hard copies to the hearing.

¹ A Section 42A Report includes a discussion of the application and the submissions. It recommends (with reasons) whether the consent applications should be granted or not. That recommendation does not bind the Commissioner.

² Expert evidence is that written by qualified planners, engineers or scientists, for example, prepared in accordance with the Environment Court's Practice Note 2014 for expert witnesses.

- (h) If the Applicant proposes to have legal counsel present opening legal submissions, the Applicant is requested to provide those submissions to the Hearings Administrator no later than **2.00pm on Thursday 10 December 2020**.
- (i) If submitters or experts intend to appear at the hearing by way of Zoom (or other video conferencing) and if those participants intend to read from written material then copies of that material must be provided to the Hearings Administrator no later than **2.00pm on Thursday 10 December 2020**. That will enable the Commissioner to receive and read the material prior to the hearing or at least have it available to him during the hearing.
- (j) All pre-circulated material received will be posted on the ORC website (see below).
- (k) All submissions, pre-circulated evidence and legal submissions will be taken as read at the hearing. Accordingly, pursuant to section 41C(1)(b) of the RMA, the Applicant and submitters are directed that they and their experts will not be required to read any such material aloud at the hearing. Reading that material aloud at the hearing would be an inefficient use of time as the Commissioner will have already read it.
- (l) All people appearing at the hearing will be allowed to verbally and briefly highlight key points from their submissions or evidence for the benefit of the Commissioner. The Commissioner will then ask any questions he may have.
- (m) Should any submitter wish to speak in Te Reo or utilise visual aids (PowerPoint, etc) they are requested to liaise directly with the Hearings Administrator as soon as possible but prior to **Friday 27 November 2020** regarding their needs.

Site Visit

- [6] The Commissioner intends to undertake a site visit prior to the hearing.
- [7] Participants are requested to inform the Hearings Administrator by **2.00pm on Friday 27 November 2020** of any areas of interest, along with supporting reasons, that they would wish the Commissioner to include within his site visit.

Correspondence

- [8] Participants must not attempt to correspond with or contact the Commissioner directly. All correspondence relating to the hearing must be addressed to the Hearings Administrator.

Website

- [9] All information relevant to the hearing will be made available on the ORC website:
<https://www.orc.govt.nz/consents/current-notified-applications/port-otago-limited-rm19441>

Service on the Council

- [10] All evidence and legal submissions addressed by this Minute must be lodged with ORC by either:
 - Preferably by email to karen.bagnall@orc.govt.nz
 - By post addressed to Karen Bagnall Otago Regional Council, Private Bag 1954, Dunedin 9054
- [11] Evidence and legal submissions lodged must be provided in **Microsoft WORD** format. The documents must be 'unlocked' so that they can be annotated by the Commissioner.



Rob van Voorthuysen
Commissioner
3 November 2020