

BEFORE THE FRESHWATER HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Otago Regional Policy Statement
2021: Freshwater Planning Instrument

**APPLICATION FOR LEAVE TO CROSS-EXAMINE BY THE OTAGO
REGIONAL COUNCIL**

Dated 26 July 2023

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APPLICATION FOR LEAVE TO CROSS-EXAMINE BY THE OTAGO REGIONAL COUNCIL

May it please the Panel:

Introduction

- 1 This application responds to paragraph 5 of Minute 1 dated 10 May 2023.
- 2 The ORC seeks leave to cross-examine the expert planning witnesses listed in the **attached** table.
- 3 The **attached** table also lists the proposed topics and estimated time required.
- 4 The grounds for this application are:
 - 4.1 There are material differences between witnesses on the topics listed.
 - 4.2 The interests of justice are served by allowing cross examination to test the positions of the expert planning witnesses.
 - 4.3 The interests of justice should be determined by reference to the subject matter of the hearing and its desired outcome (the Panel's best-informed recommendations on the pORPS).
 - 4.4 The interests of justice should be construed broadly given the limited appeal rights under the Freshwater Planning Process.
 - 4.5 The ORC as the local authority preparing the pORPS must meet the requirements of the RMA and instruments made under it. To do so the ORC should test, and ensure that it fully understands, the reasoning of the expert planning witnesses.
 - 4.6 Because the ORC has the final right of reply it has a duty where possible to put matters it may raise in that reply to the relevant witnesses. For example, a section 42A author may propose further amendment to the pORPS as a result of submitter evidence. Such an amendment should be put to the relevant witnesses.
 - 4.7 Absent such a duty, putting reply points (such as any proposed further amendments) to the expert planning witnesses is in the interests of justice in that it provides a fair opportunity for the witness

to respond to the point, and best informs the Panel in making its recommendations.

A handwritten signature in blue ink, consisting of a horizontal line that curves upwards and then loops back down to the left.

Simon Anderson
Counsel for Otago Regional Council
26 July 2023

	SRMR-I5	SRMR-I6	SRMR-I9	SRMR-I12	WAI-O1	WAI-P1	FW-O1A	VM-OA2	VM-O2	VM-O3	VM-O4	VM-O5	VM-O6	FW-O9	VM-P5	FW-P7	FW-P7A	FW-P7B	FW-P7C	FW-P9	FW-P10	FW-P15	FW-P16	FW-M6	FW-M7	FW-M11	LS-P18	LS-P21	LS-M11	Time (minutes) ¹	
Claire Hunter Contact Energy					✓	✓								✓							✓	✓						✓			30
Bruce McKinlay DOC									✓	✓	✓	✓	✓	✓																	15
Marine Richarson DOC							✓		✓	✓	✓	✓	✓			✓															15
Murray Brass DOC						✓	✓		✓	✓	✓			✓																	30
James Taylor DCC						✓	✓				✓	✓			✓		✓					✓	✓				✓				30
Susannah Tait Fonterra																							✓								15
Timothy Ensor Fulton Hogan						✓								✓																	15
Leanne Roberts HortNZ						✓		✓	✓	✓	✓		✓																		15
Vance Hodgson HortNZ	✓	✓					✓																								15
Maria Bartlett Kai Tahu					✓		✓		✓																						15
Sandra McIntyre Kai Tahu					✓		✓		✓	✓	✓	✓	✓	✓		✓			✓	✓	✓	✓	✓	✓				✓	✓		45

¹ These time estimates are necessarily inaccurate. Factors such as proposed s42A author reply points, additional verbal evidence, and witness answers to questions will impact time spent (and whether there is ORC cross-examination at all).

	SRMR-I5	SRMR-I6	SRMR-I9	SRMR-II2	WAI-O1	WAI-P1	FW-O1A	VM-OA2	VM-O2	VM-O3	VM-O4	VM-O5	VM-O6	FW-O9	VM-P5	FW-P7	FW-P7A	FW-P7B	FW-P7C	FW-P9	FW-P10	FW-P15	FW-P16	FW-M6	FW-M7	FW-M11	LS-P18	LS-P21	LS-M11	Time (minutes) ¹
Stephanie Styles ² Manawa																				✓										15
Claire Hunter OGL					✓	✓	✓							✓			✓				✓	✓	✓				✓			15 ³
Ben Farrell F&G, Real Journeys & NZSki	✓	✓	✓	✓	✓	✓	✓	✓	✓					✓		✓	✓		✓	✓	✓								✓	30
Michael Freeman OWRUG									✓								✓													15
Claire Perkins OWRUG	✓	✓	✓			✓	✓		✓	✓	✓	✓				✓	✓	✓	✓		✓			✓				✓	✓	45
John Kyle Silver Fern Farms														✓		✓	✓				✓									15
Richard Johnson Strath Clyde Water et al	✓								✓								✓							✓						15
Gavin McCullagh Fuel Companies																✓	✓					✓								15
Ainsley Macleod Transpower														✓							✓	✓			✓					15
Aileen Crow Waka Kotahi							✓		✓			✓													✓					15

² If attending, and if verbal evidence is offered on this provision (or others).

³ This assumes most ground is covered in her evidence for Contact.

	SRMR-I5	SRMR-I6	SRMR-I9	SRMR-II2	WAI-O1	WAI-P1	FW-O1A	VM-OA2	VM-O2	VM-O3	VM-O4	VM-O5	VM-O6	FW-O9	VM-P5	FW-P7	FW-P7A	FW-P7B	FW-P7C	FW-P9	FW-P10	FW-P15	FW-P16	FW-M6	FW-M7	FW-M11	LS-P18	LS-P21	LS-M11	Time (minutes) ¹
Hamish Rennie Wise Response									✓	✓	✓	✓	✓	✓		✓					✓	✓	✓	✓	✓		✓	✓	✓	30
Maggie Burns Forest & Bird					✓	✓	✓							✓			✓				✓	✓			✓					15