

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I TE KŌTI TAIAO O AOTEAROA
ŌTAUTAHI ROHE**

ENV-2024-CHC-

UNDER the Resource Management Act 1991

IN THE MATTER of appeals under clause 14(1) of the First Schedule of the Act in relation to the non-freshwater planning instrument parts of proposed Otago Regional Policy Statement 2021 (pORPS21)

BETWEEN **ARA POUTAMA AOTEAROA DEPARTMENT OF CORRECTIONS** and the other appellants on the non-freshwater planning instrument parts of the Proposed Otago Regional Policy Statement 2021 listed overleaf

Appellants

AND **OTAGO REGIONAL COUNCIL**, a regional council under Schedule 2 of the Local Government Act 2002, having its principal office at 70 Stafford Street, Dunedin

Respondent

**MEMORANDUM OF THE OTAGO REGIONAL COUNCIL ON APPEALS ON THE
NON-FRESHWATER INSTRUMENT PARTS OF THE PROPOSED OTAGO
REGIONAL POLICY STATEMENT**

Dated: 17 May 2024

ROSS DOWLING MARQUET GRIFFIN
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DUNEDIN

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AND AURORA ENERGY LIMITED, NETWORK WAITAKI LIMITED AND POWERNET LIMITED

AND BP OIL NEW ZEALAND LIMITED, MOBIL OIL NEW ZEALAND LIMITED, AND Z ENERGY LIMITED

AND CAIN WHĀNAU

AND DUNEDIN CITY COUNCIL

AND ENVIRONMENTAL DEFENCE SOCIETY INCORPORATED

AND MANAWA ENERGY LIMITED

AND MERIDIAN ENERGY LIMITED

AND OCEANA GOLD (NEW ZEALAND) LIMITED

AND PORT OTAGO LIMITED

AND QUEENSTOWN AIRPORT CORPORATION LIMITED

AND RAYONIER MATARIKI FORESTS, CITY FORESTS LIMITED, ERNSLAW ONE LIMITED and PORT BLAKELY NZ LIMITED

AND REAL GROUP LIMITED

AND ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NEW ZEALAND INCORPORATED

AND TE RŪNANGA O MOERAKI, KĀTI HUIRAPA RŪNAKA KI PUKETERAKI, TE RŪNANGA O ŌTĀKOU AND HOKONUI RŪNANGA, TE AO MARAMA INCORPORATED ON BEHALF OF WAIHOPAI RŪNAKA, TE RŪNANGA O ŌRAKA APARIMA, AND TE RŪNANGA O AWARUA and TE RŪNANGA O NGĀI TAHU

AND TRANSPower NEW ZEALAND LIMITED

**MEMORANDUM OF THE OTAGO REGIONAL COUNCIL ON APPEALS ON THE
NON-FRESHWATER INSTRUMENT PARTS OF THE PROPOSED OTAGO
REGIONAL POLICY STATEMENT**

To The Registrar
 Environment Court
 Christchurch

And to: Each submitter on the non-freshwater planning instrument parts of the
 Proposed Otago Regional Policy Statement 2021

Introduction

- 1 The Otago Regional Council (“the **ORC**”) notified its decision on both the freshwater planning instrument and non-freshwater planning instrument parts of the Proposed Otago Regional Policy Statement 2021 (“the **PORPS**”) by public notice dated 30 March 2024.
- 2 The public notices can be accessed on the ORC website:
<https://www.orc.govt.nz/plans-policies-reports/regional-plans-and-policies/otago-regional-policy-statements/decisions-on-otago-regional-policy-statement-2021>
- 3 Submitters on the PORPS who provided an address for service have been individually notified of the decisions.
- 4 The appeal period within which each submitter may lodge an appeal to the Environment Court against the decision of Otago Regional Council on the non-freshwater planning instrument parts of the PORPS (“the **Appeals**”) will end on or about 16 May 2024. Appeals are being uploaded to the ORC website as they are received and can be accessed on the ORC website:
<https://www.orc.govt.nz/plans-policies-reports/regional-plans-and-policies/otago-regional-policy-statements/appeals-on-the-proposed-otago-regional-policy-statement-2021/environment-court-appeals>
- 5 At the time of preparing this memorandum there are 16 appeals.
- 6 The periods within which submitters on the non-freshwater planning instrument parts of the PORPS may lodge section 274 notices is expected to end by 14 June 2024.

7 It is expected that there will be a significant number of section 274 notices.

Proposed Directions

8 Port Otago Limited has sought a direction to:

“Require the Otago Regional Council to make a copy of the Appellant's appeal available on the Council's public website, and specifically on those pages relating to Environment Court appeals made on the ORPS.”

9 Dunedin City Council has sought directions to:

“...require the Otago Regional Council to make the Dunedin City Council appeal available on its public website, and specific webpages relating to environment court appeals on the ORPS and advise submitters of this to ensure sufficient notice is provided to any other interested parties.”

10 ORC agrees that directions to the effect above are appropriate¹ and proposes the following directions for the efficient conduct of the appeals:

10.1 Appeals webpage:

10.1.1 The ORC must maintain an appeals website to which all Appeal documents will be uploaded (“the **Appeals Website**”).

10.1.2 The ORC must update the Appeals Website, preferably daily, but otherwise within three working days of any section 274 notice, or other Appeal document being served on it.

10.2 Notices of appeal:

10.2.1 All notices of appeal must be uploaded to the Appeals Website.

10.2.2 The requirement (if any) to serve a copy of each notice of appeal (including the “advice to recipients” and its attachments) on submitters who did not provide an address for service is waived.

¹ Dunedin City Council and Port Otago Limited both note that there are a large number of submitters for which no email address has been provided. Section 1.5.1 of the ORC’s section 42A report dated 4 May 2022 discusses this “A large number of incomplete submissions were received. They did not include contact details for the submitter nor an address for service. It has been impossible to contact the people who purported to lodge these submissions. These submissions are included in the Summary of Decisions Requested as Part B to the List of Submitters. There are a large number of submissions received in a standard form produced by Greenpeace New Zealand and ten others. They have not been considered in this report.”. It was recommended that these incomplete submissions be held to be invalid. The Panel’s decision does not address this recommendation.

Service on those submitters (if required) will be deemed to be effected by the Council uploading the notices of appeal to the Appeals Website.²

10.3 Section 274 notices:

10.3.1 Section 274 notices must be lodged with the Court electronically by email to liam.davies@justice.govt.nz.

10.3.2 Section 274 notices must be served on the ORC by email to hearingsadministrator@orc.govt.nz and on the appellant by email to the address for service provided in the notice of appeal.

10.3.3 The requirement to lodge a signed original and one hard copy of any section 274 notice with the Court is waived.

10.3.4 Service of each section 274 notice on all other parties will be deemed to be effected by the ORC uploading the section 274 notice onto the Appeals Website.

10.4 Initial case management memorandum: On or before 12 July 2024 the ORC is to lodge with the Court and serve on all parties a case management memorandum which must:

10.4.1 identify any preliminary issues;

10.4.2 identify the topics appealed, and which Appeals relate to each topic;

10.4.3 advise whether in the ORC's opinion, it is appropriate to hear certain Appeals separately or group Appeals together by topics for mediations and/or hearings;

10.4.4 report on the information uploaded to the Appeals Website;

10.4.5 advise whether any particular sequencing of Appeals (or groups of Appeals) is considered appropriate; and

10.4.6 advise whether mediation could usefully be addressed by topics and if so, propose some potential dates for mediation (enabling

² This direction is proposed without prejudice to whether those submissions are valid and service is required at all.

time for the ORC to prepare its position papers and the Court to consider any preliminary issues) on each topic.

10.5 **Notice of Directions:** If the Court makes directions in response to this memorandum, then the ORC must:

10.5.1 Upload those directions to the Appeals Website; and

10.5.2 Serve a copy of those directions on all submitters who have provided an address for service.

11 A copy of this memorandum will be served on all submitters who have provided an address for service.



S J Anderson / T M Sefton
Counsel for the Otago Regional Council

17 May 2024