

IN THE HIGH COURT OF NEW ZEALAND  
DUNEDIN REGISTRY

CIV-2024-412-000038

I TE KŌTI MATUA O AOTEAROA  
ŌTEPOTI ROHE

UNDER

s 299 and cl 56 of Schedule 1 to  
the Resource Management Act  
1991 (“RMA”)

IN THE MATTER OF

an appeal against decisions on the  
freshwater planning instrument-  
related parts of the Proposed  
Otago Regional Policy Statement  
2021

BETWEEN

TE RŪNANGA O MOERAKI, KĀTI  
HUIRAPA RŪNAKA KI  
PUKETERAKI, TE RŪNANGA O  
ŌTĀKOU AND HOKONUI  
RŪNANGA, papatipu rūnanga of  
Ngāi Tahu Whānui referred to in s 9  
of the Te Runanga o Ngai Tahu Act  
1996, with the addresses in  
Appendix 1 to this notice

First Appellants

(continued overleaf)

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MEMORANDUM OF COUNSEL FOR KĀI TAHU IN RESPONSE TO JOINT  
MEMORANDUM OF COUNSEL FOR FISH & GAME AND OCEANA GOLD  
LIMITED

Dated 13 November 2024

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**Solicitor instructing:**  
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**AND**

**TE AO MARAMA  
INCORPORATED ON BEHALF  
OF WAIHOPAI RŪNAKA, TE  
RŪNANGA O ŌRAKA APARIMA,  
AND TE RŪNANGA O AWARUA,**  
an incorporated society having its  
registered office at 190 Forth  
Street, Invercargill

Second Appellants

**AND**

**TE RŪNANGA O NGĀI TAHU,** a  
body corporate established  
pursuant to s 6 of the Te Runanga  
o Ngai Tahu Act 1996, having its  
registered address at 15 Show  
Place, Christchurch

Third Appellants

**AND**

**OTAGO REGIONAL COUNCIL,** a  
regional council named in Part 1 of  
Schedule 2 to the Local  
Government Act 2002, having its  
registered office at Level 2/144  
Rattray Street, Dunedin

Respondent

**MEMORANDUM OF COUNSEL FOR KĀI TAHU IN RESPONSE TO JOINT  
MEMORANDUM OF COUNSEL FOR FISH & GAME AND OCEANA GOLD  
LIMITED**

**May it please the Court:**

1. This memorandum is filed in response to the joint memorandum of counsel for the Fish & Game parties and Oceana Gold Limited dated 8 November 2024, as per the directions of Harland J dated 12 November 2024.
2. Counsel has also had the opportunity to review the memoranda filed by Otago Regional Council (“**ORC**”) and the Royal Forest and Bird Protection Society Incorporated (“**Forest & Bird**”).

**Kāi Tahu oppose indefinite adjournment**

3. The Kāi Tahu parties oppose the proposed (indefinite) adjournment of the remaining points in the Fish & Game and Oceana Gold Limited appeals, for the reasons provided by ORC and Forest & Bird.

**Kāi Tahu oppose consolidation of its appeal with the Fish & Game and Oceana Gold appeals**

4. Counsel understand that the Court will shortly be issuing a judgment on the joint memoranda seeking orders by consent.
5. Until the outcome of that judgment is known, counsel consider it would be speculative to consider consolidation of any extant or remaining appeal points arising from those appeals. The appropriate time to address those issues is after the Court’s decision on the joint memoranda, not before it.

**Kāi Tahu seek that a fixture is allocated for the remaining appeals**

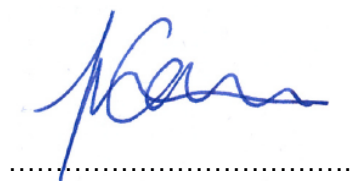
6. The Court has already made directions allocating a three-day fixture for the appeals no sooner than the week beginning 3 March 2025, in Dunedin if possible.
7. Counsel consider that it would be appropriate to now allocate a fixture for those appeals. Kāi Tahu will abide on the issue of timetabling, and whether or not the timetabled dates for the case on appeal and

submissions ought to be revoked and replaced with directions working backwards from the fixture date (noting that this may be influenced by when the Court has available time for a fixture).

**In any event, the Kāi Tahu application for waiver should be addressed first**

8. As the Court is aware, Kāi Tahu filed an application for waiver of the time period in which to join the Oceana Gold appeal on 31 October 2024. The 10-working day period for notices of opposition expires at 5.00pm tomorrow. At this stage, no party has opposed the application and the appellant has confirmed that it does not object to the application.<sup>1</sup>
9. In the event that the application is unopposed, then counsel invite the Court to deal with the matter on the papers, before any decision is made on the request by the appellants to adjourn, or alter the timetable for, the hearing of their appeals.

**Dated** 13 November 2024



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A M Cameron  
Counsel for Kāi Tahu

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<sup>1</sup> See email correspondence from counsel to Oceana Gold to the Registrar dated 31 October 2024.