

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY**

ENV-2024-CHC-000036

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

UNDER

cl 14 of Schedule 1 to the
Resource Management Act 1991
("RMA")

IN THE MATTER OF

an appeal against decisions on the
non-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**

First Appellants

AND

**TE AO MARAMA
INCORPORATED ON BEHALF
OF WAIHOPAI RŪNAKA, TE
RŪNANGA O ŌRAKA APARIMA,
AND TE RŪNANGA O AWARUA**

Second Appellants

(continued overleaf)

MEMORANDUM OF COUNSEL ON BEHALF OF KĀI TAHU

17 October 2024

Solicitor instructing:

Chris Ford



Te Rūnanga o NGĀI TAHU

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AND

TE RŪNANGA O NGĀI TAHU

Third Appellants

AND

OTAGO REGIONAL COUNCIL

Respondent

MEMORANDUM OF COUNSEL ON BEHALF OF KĀI TAHU

May it please the Court | Tēnā, e te Kōti

1. This memorandum is filed on behalf of the Kāi Tahu parties (both as appellants and interested parties) to appeals against the non-FPI parts of the proposed Otago Regional Policy Statement (“**PORPS**”).
2. Counsel has received email correspondence from the solicitors for Otago Regional Council (“**ORC**”), which is attached to this memorandum as **Appendix A**.
3. In that correspondence, ORC confirms advice from the Mediations Case Manager that, despite the proposed dates (Tuesday to Friday 26-29 November) listed in Appendix 1 to the Council’s memorandum dated 9 September 2024, the Group 1 mediation has been set down for two days only on the basis of ORC’s indication that half a week would be required for a number of mediations in ORC’s memoranda of 12 July (Appendix C) and 9 September 2024 (Appendix 1).
4. With all due respect to the Court, the memoranda filed by ORC on both 16 August and 9 September, leading to Commissioner Buchanan’s Minute of 10 September 2024, all expressly stated that references to “one week” or “1/2 week” were very much estimates,¹ and therefore sought 4 days for each group. That request appears to have been confirmed by Commissioner Buchanan in his Minute dated 10 September 2024, where it was directed that “*Mediation is to be set down as per Appendix 1*”.
5. Counsel is concerned that it will not be possible to complete mediation on the Group 1 topics within two days. The matters to be mediated in Group 1 go to issues at the heart of the PORPS, in relation to the role of mana whenua and the approach to Māori land. Those matters will have important flow-on consequences for the other mediation groups which are to follow, which may either narrow the scope of some issues in those groups or resolve them entirely.
6. In the event that further mediation time is required, adjourning the Group 1 mediations to overflow weeks in late May and June 2025 is

¹ See fn 1 to the 16 August memorandum; and fn 2 to the 9 September memorandum.

unlikely to achieve the outcomes in cl 5.1 of the Practice Note 2023, particularly:

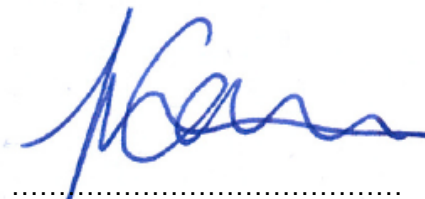
- (a) the need to promote the timely and cost-effective resolution of proceedings; and
- (b) the efficient use of judicial, legal and administrative resources.

7. While that issue applies equally to other groups, counsel submits that the issue is most acute for the Group 1 matters, given the 50% reduction in scheduled time from what was sought.

Confirmation sought

- 8. To that end, counsel respectfully requests confirmation as to whether additional time is available in the week of 25 November 2024 to mediate the Group 1 topics at the mediation location.
- 9. Counsel are available to attend a judicial teleconference with Commissioner Buchanan at short notice, if it would assist.

DATED 17 October 2024



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Aidan Cameron
Counsel for Kāi Tahu