

**Before Councillors and Independent Commissioners appointed
by the Gore District Council**

Under

the Resource Management Act
1991

And

In the Matter of

submissions and further
submissions on the Proposed Gore
District Plan

**Memorandum of Counsel for
Te Rūnanga o Ngāi Tahu in response to
Minute 33**

Dated: 31 January 2025

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INTRODUCTION

1. We act for Te Rūnanga o Ngāi Tahu (**Ngāi Tahu**) in relation to both the Proposed Gore District Plan (**PDP**) and several other District Plan Review processes around the South Island.

Minute 33 and Federated Farmers' Request to Postpone Proceedings

2. The Hearings Panel received a memorandum on behalf of Southland Federated Farmers (**SFF**) dated 18 December 2024 requesting that the Panel issue an amended timetable for the filing of evidence on the PDP hearings. SFF sought that the filing of evidence be delayed until after the Council meeting on 18 February 2025, where Councillors will determine whether to grant a request made by Stoney Creek Station (and other submitters) to delay the PDP proceedings for nine months to account for the proposed reform of the Resource Management Act 1991 (**RMA**).
3. The reason for the request is that submitters will be required to allocate substantial time and financial resources to prepare evidence in accordance with the existing timetable, which currently requires further evidence on the Ngāi Tahu Cultural Values (**NTCV**) chapter to be filed ahead of the 18 February date.
4. In Minute 33, the Panel directed submitters to provide comments or alternative proposals on the request by 31 January 2025.

Te Rūnanga o Ngāi Tahu Response

5. Decisions on all submissions are anticipated to be released in the second quarter of 2025, as outlined in paragraph 8.2 of Minute 5 issued by the Panel. We understand that this timeline considers the local body election period in 2025 (August to October 2025) and the statutory requirement under clause 10(4), Schedule 1 of the RMA. These statutory requirements mandate that all decisions on submissions on the notified plan must be given within two years of its notification date. As the PDP was notified on 31 August 2023, we calculate that decisions on submissions on the PDP are required to be made by 31 August 2025.
6. Consequently, Ngāi Tahu has concerns that SFF's request to delay proceedings without a specified date will impact this statutory deadline, as well with the Council's duty under section 21 of the RMA to avoid unreasonable delays in decision-making. Delaying the proceedings will result in Council not complying with these obligations. If the Council cannot comply with its statutory obligations, ministerial approval would

be required to extend the timeframe for decision making.¹ Before applying for an extension, the Council would be required to take into account:²

- (a) *“the interests of any person who, in its opinion, may be directly affected by an extension;”*
- (b) *“the interests of the community in achieving adequate assessment of the effects of the proposed policy statement or plan or change to a policy statement or plan”; and*
- (c) *“its duty under section 21 to avoid unreasonable delay.”*

7. The Minister for the Environment has discretion whether to decline or agree to an extension.³ We consider that the factors listed above and the reasons for the delay would unlikely result in the grant of an extension by the Minister. Counsel is involved in Environment Court proceedings where the Court has made it clear that uncertainty with potential resource management reform is not a reason to delay proceedings and decision-makers under the RMA have a duty to apply the law as it stands.
8. In addition, submitters on the NTCV chapter have already been granted an extension for the filing of evidence relating to this hearing stream.⁴ Parties, including Ngāi Tahu have been working in good faith to resource and present robust evidence and legal argument to the Panel. Further delay on the filing of submitter evidence and the reconvened NTCV hearing will result in undue prejudice to Ngāi Tahu given the significant time and financial resource that has been committed by Ngāi Tahu to the correct process.
9. Decisions to delay the PDP have implications under the RMA and Local Government Act 2002. This memorandum relates to obligations under the RMA. Counsel will respond separately to the Council’s letter to submitters dated 22 January 2025 to provide feedback on the request to pause the PDP for nine months by 11 February 2025.⁵

¹ Resource Management Act 1991, Schedule 1, Clause 10A(1).

² Schedule 1, Clause 10A(3).

³ Schedule 1, Clause 10A(4).

⁴ Minute 25 of the Hearing Panel.

⁵ Gore District Council, Letter – *Feedback sought on proposal to pause the Gore District Council Proposed District Plan hearing and decision process*, 22 January 2025.

10. Accordingly, Ngāi Tahu opposes SFF's request to delay the PDP proceedings and seeks that:
- (a) the timetable as directed in the Panel's Minute 31 remain in place; and
 - (b) the Panel make its recommendations on the PDP without delay.

DATED 31 January 2025



J Leckie

Counsel for Te Rūnanga o Ngāi Tahu