

**IN THE MATTER of
the Resource Management Act 1991**

AND

**IN THE MATTER of
Hearing of submissions and further
submissions on the Proposed Te Tai o
Poutini Plan**

**MINUTE 36 – Ecosystems and Indigenous
Biodiversity Chapter
Hearing**

Introduction

1. On the 5th of August 2024, the Hearing Panel received the following request of the Te Tai o Poutini Plan (TTPP) Committee:

The Committee asks the Project Manager to remind the Hearings Panel that it had by Minute 14 - 11 January 2023 [sic] postponed the Ecosystems and Indigenous Biodiversity hearing to October 2024 and that it be asked to reschedule the scheduled hearing for end of August 2024 to end of October 2024.

Background

2. In January 2024, the Hearing Panel issued Minute 14 advising of a delay in hearing the Ecosystems and Indigenous Biodiversity chapter, which had been originally scheduled to be heard in March 2024. The reasoning given for the delay was that the new Government had signaled its intention to review a number of aspects of the Resource Management Framework including the National Policy Statement on Indigenous Biodiversity (NPS-IB), with a particular focus on reconsidering the mapping of Significant Natural Areas (SNA) that are required by the NPS-IB and the current West Coast Regional Policy Statement (RPS).
3. Prior to issuing Minute 14, the TTPP Committee had met and had communicated to the Hearings Panel that it considered there might be some benefit in delaying the hearing of the Ecosystems and Indigenous Biodiversity topic until later in the year, when there may be more clarity about potential future changes to SNA requirements under the national statutory framework.
4. In response, the Hearing Panel agreed to delay and reschedule the hearing, indicating in Minute 14 that the Ecosystems and Indigenous Biodiversity chapter was likely to be held in October 2024, to allow further time for clarity regarding national direction for the identification of SNA.
5. Subsequently, the Hearing Panel was forced to move the hearings on Natural Hazards and the Coastal Environment chapters which had originally been scheduled for the end of August and beginning of September, because of the Variation 2 process. These hearings were rescheduled over three separate weeks in October. As a result, a potential TTPP hearing time slot became available and the Ecosystems and Indigenous Biodiversity Hearing was rescheduled for the end of August. The Hearing Panel considered this was the most efficient use of time given the need to progress the hearing process without undue delay; and importantly, to minimise costs and disruptions to the overall hearing process timeframe. Furthermore, the Panel considered this had allowed a further 6 months and it was increasingly unlikely that any review of the NPS-IB would be in place before the end of October.
6. This remains the Hearing Panel's view, particularly given the Resource Management (Freshwater and Other Matters) Amendment Bill is still in Select Committee stage and it is unclear when any changes to the NPS-IB will take effect, or the final detail of those amendments. Furthermore, SNA identification is required by the RPS and decisions on the pTTPP must give effect to section 6 matters of national importance in the Resource Management Act and the RPS.

Postponement of the hearing for Ecosystems and Indigenous Biodiversity

7. The Hearing Panel has carefully considered the TTPP Committee's request to postpone the August hearing dates to October 2024. However, there is simply no time available to enable this to occur in October given the Natural Hazards and Coastal Environment Hearings are scheduled and all parties require sufficient time to prepare for the hearing and pre-read the evidence. The Hearing Panel is also mindful that hearing parties may be prejudiced by a postponement in those hearings.
8. At the earliest, the Hearing Panel could potentially postpone the hearing until the week beginning 18 November 2024. However, this will incur additional costs, require the rescheduling of the Outstanding Matters and Variation 1 Hearing and ultimately will delay the release of the Hearing Panel's decision next year. The Hearing Panel are not in a position to know at this point what effect such a delay will have on other participants in the process, for example in relation to expert and submitter availability.
9. It is the Hearing Panel's preference to proceed with the Ecosystems and Indigenous Biodiversity hearing at the end of August, given that this has already been set down and all parties involved in the process have had advance notice of the dates. The s42A report has been issued, expert evidence from submitters has been provided and legal submission preparation will be underway. Postponing the hearing will not enable the parties to provide further evidence given these steps have already occurred and the principles of natural justice must be maintained.
10. The Hearing Panel asks that the TTPP Committee urgently advise the Hearing Panel if it still requests the August hearing is postponed, in light of the consequences outlined above.



Dean Chrystal

Independent Commissioner – Chair - on behalf of the Hearing Panel members

6 August 2024