

**IN THE HIGH COURT OF NEW ZEALAND
DUNEDIN REGISTRY**

**I TE KŌTI MATUA O AOTEAROA
ŌTEPOTI ROHE**

CIV-2021-412-089

UNDER the Declaratory Judgments Act 1908

IN THE MATTER of an application under the Declaratory
Judgments Act 1908

BETWEEN **OTAGO REGIONAL COUNCIL**
Plaintiff

AND **ROYAL FOREST AND BIRD PROTECTION
SOCIETY INC**
Defendant

**STATEMENT OF DEFENCE FOR
OCEANA GOLD (NEW ZEALAND) LIMITED
Dated 18 November 2021**

Next event date: 8 February 2022

Solicitor acting:

Jackie St John
In-house counsel
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Counsel acting:

Stephen Christensen
Project Barrister
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The Third Party (Oceana Gold (New Zealand) Limited) by its solicitors says:

1. The Third Party submitted on the Proposed Otago Regional Policy Statement (**PORPS**).
2. The Plaintiff lodged a statement of claim seeking declarations on the PORPS on 3 September 2021.
3. The Third Party was served with a copy of the declaration proceedings on 27 September 2021.
4. The Third Party served a Notice of Appearance on 18 October 2021.
5. The Third Party was to file a Statement of Defence by 18 November 2021.

Facts upon which the application is based

6. The Third Party admits paragraph 3(a) and admits paragraph 3(b) insofar as the responsibilities relating to the preparation of regional policy statements arise under sections 59-62 RMA but denies that section 63 RMA is relevant.
7. The Third Party admits paragraphs 4 – 8.

The Proposed Otago Regional Policy Statement 2021

8. The Third Party admits paragraphs 9 – 12.

Decision to subject whole of PORPS to freshwater planning process

9. The Third Party admits paragraph 13 but notes that section 80A(3) RMA stipulates that if only part of the planning instrument (in this case the PORPS) relates to freshwater then the Council must prepare the parts that do not relate to freshwater in accordance with Part 1 of Schedule 1 or subpart 5.
10. The Third Party admits paragraph 14 but notes that the RPS Notification Report did not expressly recognise that where only part of a planning instrument relates to freshwater, then the Council must prepare the parts that do not relate to freshwater in accordance with Part 1 of Schedule 1 or subpart 5.
11. The Third Party admits paragraph 15 but notes that the links with other chapters identified in the RPS Notification Report do not list all the chapters in the PORPS. The Third Party has assessed the provisions it submitted on and has identified which of these do not relate to freshwater. This is exhibit CH-2 to Claire Hunter's affidavit.
12. The Third Party admits paragraphs 16 – 17 noting that the Third Party disagrees that the PORPS is a freshwater planning instrument in its entirety.
13. The Third Party admits paragraphs 18 – 23, noting that the public notice should have identified that only part of the PORPS was a freshwater planning instrument and that the non-

freshwater parts were to be prepared in accordance with Part 1 of Schedule 1 or subpart 5.

Declaration Sought

14. The Third Party:

- a. Denies paragraphs 24(1) and 24(2); and
- b. Admits paragraph 24(3) but notes that before such a declaration could be made the Plaintiff will need to identify which parts of the PORPS relate to freshwater and which parts do not relate to freshwater.

DATED this 18th day of November 2021



Stephen Christensen/Jackie St John
Counsel for Oceana Gold (New Zealand) Limited

This document is filed by the third party in person. The address for service of the third party is 22 Mclaggan Street, Dunedin.

Documents for service on the filing party may be left at that address for service or may be—

(a) posted to the party at PO Box 5442, Dunedin 9058 or

(b) emailed to the party at NZLegal@oceanagold.com

