

IN THE HIGH COURT OF NEW ZEALAND  
DUNEDIN REGISTRY

I TE KŌTI MATUA O AOTEAROA  
ŌTEPOTI ROHE

CIV-2024-412-000037 /  
000038 / 000040 / 000041 / 000042

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**UNDER** the Resource Management Act 1991

**IN THE MATTER** of appeals under Section 299 and Clause 56 of Schedule 1 of the Act

**BETWEEN** **KĀI TAHU**

**AND** **OTAGO FISH AND GAME COUNCIL AND CENTRAL SOUTH ISLAND FISH AND GAME COUNCIL**

**AND** **OCEANA GOLD (NEW ZEALAND) LIMITED**

**AND** **QUEENSTOWN LAKES DISTRICT COUNCIL**

**AND** **ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NEW ZEALAND INCORPORATED**

Appellants

**AND** **OTAGO REGIONAL COUNCIL**

Respondent

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**JOINT MEMORANDUM OF COUNSEL FOR FIRST CASE MANAGEMENT  
CONFERENCE**

**Dated: 27 September 2024**

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ROSS DOWLING MARQUET GRIFFIN  
SOLICITORS  
DUNEDIN

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**JOINT MEMORANDUM OF COUNSEL FOR FIRST CASE MANAGEMENT  
CONFERENCE**

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**May it please the Court:**

**Introduction**

- 1 A first case management conference was set down for all five appeals on 17 June 2024.
- 2 The parties filed a joint memorandum of counsel dated 12 June 2024 seeking alternative dispute resolution for the appeals.
- 3 The case management conference was subsequently vacated, and directions given in the Court's Minute dated 13 June 2024. The proceedings were adjourned to a further case management on 2 October 2024 to allow for the parties to attend mediation.

**Mediation**

- 4 Mediation occurred from Monday 19 August to Monday 26 August 2024 with the assistance of former Environment Court Judge Borthwick.
- 5 The parties to the appeals were able reach a high degree of agreement on errors of law and as to the appropriate outcome.
- 6 There is agreement on all matters raised in the following appeals:
  - 6.1 Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga (collectively, "Kāi Tahu ki Otago" or "Kā Rūnaka"); Te Ao Marama Incorporated on behalf of Waihopai Rūnaka, Te Rūnanga o Ōraka Aparima, and Te Rūnanga o Awarua (collectively, "Ngāi Tahu ki Murihiku"); and Te Rūnanga o Ngāi Tahu together referred to as "**Kāi Tahu**" (CIV-2024-012-000038); and
  - 6.2 Queenstown Lakes District Council ("**Queenstown Lakes**") (CIV-2024-012-000040); and
  - 6.3 Royal Forest and Bird Protection Society of New Zealand Incorporated ("**Forest & Bird**") (CIV-2024-012-000042).
- 7 Those matters are to be recorded in consent memoranda for the Court's consideration and determination.

- 8 The parties seek a direction for those appeals to be adjourned to a further case management conference pending the Court’s determination.
- 9 The parties seek the following appeals be set down for hearing to the extent appeal points have not been resolved:
- 9.1 Otago Fish and Game Council and Central South Island Fish and Game Council (“**Fish and Game**”) (CIV-2024-012-000037); and
- 9.2 Oceana Gold (New Zealand) Limited (“**Oceana Gold**”) (CIV-2024-012-000041).
- 10 The parties submit it appropriate that those two appeals be consolidated and can be heard sequentially.
- 11 Kāi Tahu is not currently an interested party in the unresolved appeal point in Oceana Gold’s appeal. However, the parties are aware that Kāi Tahu may consider applying to the Court (out of time) to become a party. The parties to those appeals would not object to such an application, and requests a direction be given that if Kāi Tahu seeks to become a party to the Oceana Gold appeal they must file and serve an application to become a party by 31 October 2024.

#### **Directions under Schedule 6 of the High Court Rules**

- 12 A number of schedule 6 directions were made by Her Honour Harland J in her Minute dated 13 June 2024.
- 13 This memorandum addresses the balance of Schedule 6 matters.
- 14 The parties seek the following directions:
- 14.1 The consolidated appeals will be heard at the time and date to be allocated by the Registrar.
- 14.2 The time for the hearing of the consolidated appeals is estimated to be two to three days.
- 14.3 The consolidated appeals are to proceed as determined by rule 20.8(1) or by any direction given under rule 20.8(3) in the Dunedin Registry.
- 14.4 The parties agree that detailed and specific points on appeal have been included in the notices of appeal and that it is not necessary for the

Appellants to file and serve further points on appeal that clearly state the issues on appeal.

14.5 The Appellants must file and serve electronically, not later than 22 November 2024, a common bundle of paginated and indexed copies of all relevant documents, including, if applicable:

14.5.1 The reasons for the decision; and

14.5.2 The decision appealed from; and

14.5.3 The statements of evidence; and

14.5.4 The exhibits; and

14.5.5 Any other relevant documents in date sequence.

One hard copy of the common bundle will also be filed with the Court.

14.6 If a party insists on including a document in the common bundle even though another party objects to its inclusion on the ground that it is unnecessary or irrelevant, the objection must be recorded for the purpose of any award of costs relating to the inclusion of the document.

14.7 Each Appellant must file and serve no later than 18 December 2024:

14.7.1 Its submissions; and

14.7.2 A chronology (if relevant).

14.8 The Appellants' submissions must be not more than 30 pages in length, unless a Judge permits an extension, and use 1.5 lines spacing, and must contain:

14.8.1 References to any specific passages in the evidence that the Appellants will refer to at the hearing; and

14.8.2 A list of the names and correct citations of any authorities mentioned.

14.9 The Respondent must file and serve, no later than 31 January 2025, submissions which are not more than 30 pages in length, unless a Judge permits an extension, and use 1.5 line spacing, and must contain:

- 14.9.1 References to any specific passages in the evidence that the Respondent will refer to at the hearing; and
  - 14.9.2 If the Respondent disagrees with the Appellant's chronology, a separate chronology noting areas of disagreement.
- 14.10 The other parties to the appeal must file and serve no later 14 February 2025, submissions which are not more than 30 pages in length, unless a Judge permits an extension, and use 1.5 line spacing, and must contain:
- 14.10.1 References to any specific passages in the evidence that the party will refer to at the hearing; and
  - 14.10.2 If a party disagrees with the either the Appellants' or the Respondent's chronology, a separate chronology noting areas of disagreement.
- 14.11 The Appellants must file and serve a right of reply by 21 February 2025.
- 14.12 Each Appellant must prepare a bundle of any authorities referred to in the submissions that the Appellant, Respondent or other parties consider ought to be produced to the Court. An electronic copy will be filed and served, and one hard copy will be filed with the Court. The bundle may be produced at the hearing of the appeal or filed before the appeal is heard.
- 14.13 The appeal can be heard by a single Judge.
- 15 The proposed timetable set out in paragraphs 14.5 to 14.11 above depart from the Schedule 6 timeframes because the parties agree that extended timeframes would provide time for Kāi Tahu to decide whether or not to join the appeal, would avoid the timetable being subsequently adjusted if Kāi Tahu becomes a party, and would facilitate the parallel workstreams of parties participating in the pORPS Non-freshwater Environment Court mediations scheduled from November 2024 to June 2025.
- 16 The parties request that the case management conference be vacated.



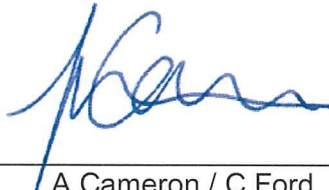
S J Anderson / T M Sefton  
Counsel for the Otago Regional Council

27 September 2024  
Date



M Baker-Galloway / L McLaughlan  
Counsel for Otago Fish and Game Council and Central South Island Fish and Game Council

27 September 2024



A Cameron / C Ford  
Counsel for Kāi Tahu

Date



P Anderson / M Downing  
Counsel for Royal Forest and Bird Protection Society of New Zealand Incorporated

Date

P Walker / S Christensen  
Counsel for Oceana Gold (New Zealand) Limited

Date

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S J Anderson / T M Sefton  
Counsel for the Otago Regional Council

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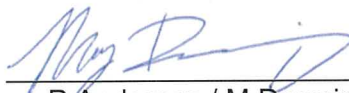
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M Baker-Galloway / L McLaughlan  
Counsel for Otago Fish and Game Council and Central South Island Fish and Game  
Council

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A Cameron / C Ford  
Counsel for Kāi Tahu

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P Anderson / M Downing  
Counsel for Royal Forest and Bird Protection Society of New Zealand Incorporated

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P Walker / S Christensen  
Counsel for Oceana Gold (New Zealand) Limited

26 September 2024

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Date



J Campbell / B Watts  
Counsel for Queenstown Lakes District Council

27/09/2024

Date

M Garbett / R Kindiak  
Counsel for Dunedin City Council

Date



L Burkhardt  
Counsel for Manawa Energy Limited

Date

C Thomsen / K Simonsen  
Counsel for Beef + Lamb New Zealand Limited

Date



P Page / B Irving  
Counsel for Otago Water Resource Users Group  
26 September 2024

Date



M Baker-Galloway / L McLaughlan  
Counsel for NZSki Limited



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J Campbell / B Watts  
Counsel for Queenstown Lakes District Council

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Counsel for Beef + Lamb New Zealand Limited

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Counsel for Otago Water Resource Users Group  
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M Baker-Galloway / L McLaughlan

*Maree Barr - Galloway*

M Baker-Galloway / L McLaughlan  
Counsel for NZSki Limited  
27 September 2024

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Date



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D Allen / C Easter  
Counsel for Contact Energy Limited

27 September 2024

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H Jopp  
Counsel for Federated Farmers of New Zealand Incorporated  
27 September 2024

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P Page / B Irving  
Counsel for Dairy NZ Limited

26 September 2024

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Date

*Maree Barr - Galloway*

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M Baker-Galloway / L McLaughlan  
Counsel for Real Group Limited

27 September 20-24

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Date



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B Williams / R Robilliard  
Counsel for Fonterra Limited

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27 September 2024  
Date

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J Macdonald  
Counsel for Central Otago District Council

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Date

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J Macdonald

Counsel for Central Otago District Council

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