

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

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 **QUEENTOWN LAKES DISTRICT COUNCIL**

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

Appellants

AND **OTAGO REGIONAL COUNCIL**

Respondent

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

Dated: 12 June 2024

ROSS DOWLING MARQUET GRIFFIN
SOLICITORS
DUNEDIN

Telephone: (03) 477 8046
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Solicitor: S J Anderson / T M Sefton

JOINT MEMORANDUM OF COUNSEL FOR FIRST CASE MANAGEMENT CONFERENCE

May it please the Court:

Introduction

- 1 Each of the five Appellants has appealed against decisions of the Respondent on the freshwater planning instrument parts of the Proposed Otago Regional Policy Statement 2021 (“the PORPS”) under Section 299 and Clause 56 of Schedule 1 of the Resource Management Act 1991 (“the Act”).
- 2 A first case management conference has been set down for all appeals on 17 June 2024 at 2.00pm by teleconference.
- 3 This memorandum addresses the consolidation of appeals, alternative dispute resolution and the matters in Schedule 6 of the High Court Rules 2016.

Consolidation

- 4 Annexure 1 sets out each PORPS provision appealed against, the appellant(s) for each, and the parties which have given notice of intention to appear.
- 5 Some provisions have been appealed by multiple appellants. There is a high level of commonality between the interested parties for each PORPS provision appealed against.
- 6 It is respectfully submitted that the appeals should be consolidated and heard together. Otherwise, the same provisions will be at issue in multiple appeals, with resulting duplication of submissions and hearing time.
- 7 This would also enable the hearing of appeals or parts of appeals by group or topic if the Court later determines that is appropriate.

Alternative dispute resolution

- 8 Some points on appeal appear capable of early resolution.
- 9 The parties agree to participate in mediation on the basis that the parties will jointly engage a suitably qualified mediator, mediation will be split by topic, and that the cost of the mediator for each topic will be shared equally between the parties to that topic.

- 10 To enable time for mediation to occur, and to monitor progress, the parties request that the consolidated proceeding be set down for a further case management conference on the first available date after 1 September 2024, with leave reserved to seek any further or different directions in the meantime.

Directions under Schedule 6 of the High Court Rules


- 11 The parties submit that the following Schedule 6 directions be made now:
- 11.1 The appeal is to be categorised as a category 2B proceeding for the purpose of Rule 14.3.
 - 11.2 The appeal is to proceed in the Dunedin Registry.
 - 11.3 The requirement for the Appellants to pay security be waived.
 - 11.4 The Solicitor-General needn't be served.
- 12 The parties submit that the following Schedule 6 and other directions be deferred until next case management conference:
- 12.1 The time and date for hearing.
 - 12.2 The estimated time for hearing the consolidated appeals.
 - 12.3 Whether any direction should be made to hear the appeals or parts of appeals by group or topic.
 - 12.4 Whether any Appellant must file and serve points on appeal which more clearly state the issues on appeal.
 - 12.5 Timetabling for the common bundle of documents.
 - 12.6 Timetabling for the Appellant, parties which have given notice of intention to appear, and the Respondent to file and serve submissions.
- 13 This memorandum is signed and agreed by all parties.



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

12/6/24

Date



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

12/6/24

Date

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

12/6/24

Date

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

Date

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

Date

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

Date



A Cameron / C Ford
Counsel for Kāi Tahu

12.6.2024

Date

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

Date

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

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

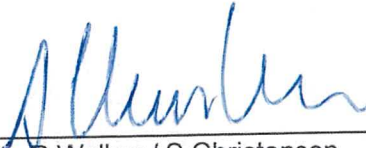
Date

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

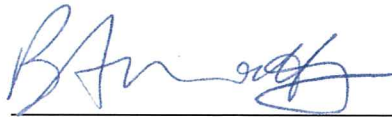
Date



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

12 June 2024

Date



J Campbell / B Watts
Counsel for Queenstown Lakes District Council

12 June 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

Date

M Baker-Galloway / L McLaughlan
Counsel for NZSki Limited

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Counsel for Queenstown Lakes District Council

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m. Galea.

M Garbett / R Kindiak
Counsel for Dunedin City Council

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Counsel for Manawa Energy Limited

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Counsel for Beef + Lamb New Zealand Limited

Date

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

Date

on behalf of

M Baker-Galloway / ~~L~~ McLaughlan
Counsel for NZSki Limited

12/6/24


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Counsel for Queenstown Lakes District Council

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Counsel for Dunedin City Council

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Counsel for Queenstown Lakes District Council


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M Garbett / R Kindiak
Counsel for Dunedin City Council

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L Burkhardt
Counsel for Manawa Energy Limited

Date



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

12-06-2024

Date

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

Date

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Counsel for NZSki Limited

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Counsel for Queenstown Lakes District Council

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Counsel for Dunedin City 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
Counsel for NZSki Limited

Date



D Allen / C Easter
Counsel for Contact Energy Limited

12/6/24
Date

H Jopp

Counsel for Federated Farmers of New Zealand Incorporated

Date

P Page / B Irving
Counsel for Dairy NZ Limited

Date



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

12/6/24
Date

B Williams / R Robilliard
Counsel for Fonterra Limited

Date

J Macdonald

Counsel for Central Otago District Council

Date

D Allen / C Easter
Counsel for Contact Energy Limited

Date



H Jopp
Counsel for Federated Farmers of New Zealand Incorporated

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Counsel for Dairy NZ Limited

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Counsel for Real Group Limited

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J Macdonald
Counsel for Central Otago District Council

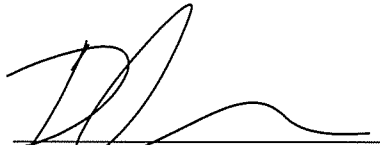
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Counsel for Contact Energy Limited

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Counsel for Federated Farmers of New Zealand Incorporated

Date



P Page / B Irving
Counsel for Dairy NZ Limited
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12 June 2024

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

Date

B Williams / R Robilliard
Counsel for Fonterra Limited

Date



J Macdonald
Counsel for Central Otago District Council
12 June 2024

Date

Annexure 1

Provision	Appellants	Section 301 Parties
LF-FW-P10 – Managing wetlands	<ul style="list-style-type: none"> • 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” • Royal Forest and Bird Protection Society of New Zealand Incorporated • Oceana Gold (New Zealand) Limited 	<ul style="list-style-type: none"> • Otago Regional Council • Oceana Gold (New Zealand) Limited • Manawa Energy Limited • Beef + Lamb New Zealand Limited • Otago Water Resource Users Group • NZSki Limited • Contact Energy Limited • Royal Forest and Bird Protection Society of New Zealand Incorporated • Federated Farmers of New Zealand Incorporated • Dairy NZ Limited • Real Group Limited • Queenstown Lakes District Council • Otago Fish and Game Council and Central South Island Fish and Game Council
LF-FW-O9 – Wetlands	<ul style="list-style-type: none"> • Royal Forest and Bird Protection Society of New Zealand Incorporated 	<ul style="list-style-type: none"> • Otago Regional Council • Oceana Gold (New Zealand) Limited • Manawa Energy Limited • Beef + Lamb New Zealand Limited • Dairy NZ Limited • Otago Water Resource Users Group • Federated Farmers of New Zealand Incorporated • NZSki Limited • Real Group Limited

<p>LS-LF-P21 – Land use and fresh water</p>	<ul style="list-style-type: none"> • Kāi Tahu • Royal Forest and Bird Protection Society of New Zealand Incorporated • Oceana Gold (New Zealand) Limited 	<ul style="list-style-type: none"> • Otago Regional Council • Oceana Gold (New Zealand) Limited • Manawa Energy Limited • Beef + Lamb New Zealand Limited • Otago Water Resource Users Group • NZSki Limited • Contact Energy Limited • Royal Forest and Bird Protection Society of New Zealand Incorporated • Federated Farmers of New Zealand Incorporated • Dairy NZ Limited • Real Group Limited • Queenstown Lakes District Council • Otago Fish and Game Council and Central South Island Fish and Game Council
<p>LF-WAI-P1- Prioritisation</p>	<ul style="list-style-type: none"> • Oceana Gold (New Zealand) Limited • Queenstown Lakes District Council 	<ul style="list-style-type: none"> • Otago Regional Council • Oceana Gold (New Zealand) Limited • Queenstown Lakes District Council • Dunedin City Council • Kāi Tahu • Manawa Energy Limited • Beef + Lamb New Zealand Limited • Otago Fish and Game Council and Central South Island Fish and Game Council • Fonterra Limited • Royal Forest and Bird Protection Society of New Zealand Incorporated • Central Otago District Council

		<ul style="list-style-type: none"> • Dairy NZ Limited • Otago Water Resource Users Group • Federated Farmers of New Zealand Incorporated • NZSki Limited • Real Group Limited
LF-FW-P16 – Discharges containing animal effluent, sewage, greywater and industrial and trade waste	<ul style="list-style-type: none"> • Oceana Gold (New Zealand) Limited • Queenstown Lakes District Council 	<ul style="list-style-type: none"> • Otago Regional Council • Oceana Gold (New Zealand) Limited • Queenstown Lakes District Council • Dunedin City Council • Kāi Tahu • Manawa Energy Limited • Beef + Lamb New Zealand Limited • Otago Fish and Game Council and Central South Island Fish and Game Council • Fonterra Limited • Royal Forest and Bird Protection Society of New Zealand Incorporated • Central Otago District Council • Dairy NZ Limited • Otago Water Resource Users Group • Federated Farmers of New Zealand Incorporated • NZSki Limited • Real Group Limited
LF-WAI-O1 – Te Mana o te Wai	<ul style="list-style-type: none"> • Oceana Gold (New Zealand) Limited 	<ul style="list-style-type: none"> • Otago Regional Council • Queenstown Lakes District Council • Manawa Energy Limited • Beef + Lamb New Zealand Limited

		<ul style="list-style-type: none"> • Otago Water Resource Users Group • NZSki Limited • Otago Fish and Game Council and Central South Island Fish and Game Council • Royal Forest and Bird Protection Society of New Zealand Incorporated • Real Group Limited • Federated Farmers of New Zealand Incorporated
LF-FW-O8 – Fresh water	<ul style="list-style-type: none"> • Otago Fish and Game Council and Central South Island Fish and Game Council 	<ul style="list-style-type: none"> • Otago Regional Council • Oceana Gold (New Zealand) Limited • Manawa Energy Limited • Beef + Lamb New Zealand Limited • Otago Water Resource Users Group • Kāi Tahu • Royal Forest and Bird Protection Society of New Zealand Incorporated • Dairy NZ Limited
LF-FW-M6 – Regional Plans	<ul style="list-style-type: none"> • Oceana Gold (New Zealand) Limited 	<ul style="list-style-type: none"> • Otago Regional Council • Queenstown Lakes District Council • Manawa Energy Limited • Beef + Lamb New Zealand Limited • Otago Water Resource Users Group • NZSki Limited • Otago Fish and Game Council and Central South Island Fish and Game Council • Royal Forest and Bird Protection Society of New Zealand Incorporated • Real Group Limited

		<ul style="list-style-type: none"> Federated Farmers of New Zealand Incorporated
LF-FW-M7 – Regional plans	<ul style="list-style-type: none"> Oceana Gold (New Zealand) Limited 	<ul style="list-style-type: none"> Otago Regional Council Queenstown Lakes District Council Manawa Energy Limited Beef + Lamb New Zealand Limited Otago Water Resource Users Group NZSki Limited Otago Fish and Game Council and Central South Island Fish and Game Council Royal Forest and Bird Protection Society of New Zealand Incorporated Real Group Limited Federated Farmers of New Zealand Incorporated
LF-FW-O1A – Visions set for each FMU and rohe	<ul style="list-style-type: none"> Otago Fish and Game Council and Central South Island Fish and Game Council 	<ul style="list-style-type: none"> Otago Regional Council Oceana Gold (New Zealand) Limited Manawa Energy Limited Beef + Lamb New Zealand Limited Otago Water Resource Users Group Kāi Tahu Royal Forest and Bird Protection Society of New Zealand Incorporated Dairy NZ Limited
LF-VM-O2- Clutha Mata-au FMU vision	<ul style="list-style-type: none"> Kāi Tahu Otago Fish and Game Council and Central South Island Fish and Game Council 	<ul style="list-style-type: none"> Otago Regional Council Oceana Gold (New Zealand) Limited Kai Tāhu Dairy NZ Limited Manawa Energy Limited

		<ul style="list-style-type: none"> • Beef + Lamb New Zealand Limited • Otago Water Resource Users Group • NZSki Limited • Contact Energy Limited • Royal Forest and Bird Protection Society of New Zealand Incorporated • Real Group Limited • Federated Farmers of New Zealand Incorporated
LF-VM-O3 – Noth Otago FMU vision	<ul style="list-style-type: none"> • Otago Fish and Game Council and Central South Island Fish and Game Council 	<ul style="list-style-type: none"> • Otago Regional Council • Oceana Gold (New Zealand) Limited • Manawa Energy Limited • Beef + Lamb New Zealand Limited • Otago Water Resource Users Group • Kāi Tahu • Royal Forest and Bird Protection Society of New Zealand Incorporated • Dairy NZ Limited
LF-VM-O4 – Taiari FMU vision	<ul style="list-style-type: none"> • Kāi Tahu • Otago Fish and Game Council and Central South Island Fish and Game Council 	<ul style="list-style-type: none"> • Otago Regional Council • Oceana Gold (New Zealand) Limited • Queenstown Lakes District Council • Kai Tāhu • Dairy NZ Limited • Manawa Energy Limited • Beef + Lamb New Zealand Limited • Otago Water Resource Users Group • NZSki Limited • Contact Energy Limited

		<ul style="list-style-type: none"> • Royal Forest and Bird Protection Society of New Zealand Incorporated • Real Group Limited • Federated Farmers of New Zealand Incorporated
LF-FW-O5 – Dunedin & Coast FMU vision	<ul style="list-style-type: none"> • Otago Fish and Game Council and Central South Island Fish and Game Council 	<ul style="list-style-type: none"> • Otago Regional Council • Oceana Gold (New Zealand) Limited • Manawa Energy Limited • Beef + Lamb New Zealand Limited • Otago Water Resource Users Group • Kāi Tahu • Royal Forest and Bird Protection Society of New Zealand Incorporated • Dairy NZ Limited
LF-FW-O6 – Catlins FMU vision	<ul style="list-style-type: none"> • Otago Fish and Game Council and Central South Island Fish and Game Council 	<ul style="list-style-type: none"> • Otago Regional Council • Oceana Gold (New Zealand) Limited • Manawa Energy Limited • Beef + Lamb New Zealand Limited • Otago Water Resource Users Group • Kāi Tahu • Royal Forest and Bird Protection Society of New Zealand Incorporated • Dairy NZ Limited