

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

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

CIV-2024-412-37

BETWEEN OTAGO FISH AND GAME COUNCIL
AND CENTRAL SOUTH ISLAND FISH
AND GAME COUNCIL
Appellants

AND OTAGO REGIONAL COUNCIL
Respondent

CIV-2024-412-41

BETWEEN OCEANA GOLD (NEW ZEALAND)
LIMITED
Appellant

AND OTAGO REGIONAL COUNCIL
Respondent

Hearing: On the papers

Counsel: M Baker-Galloway for Otago Fish and Game Council and Central
South Island Fish and Game Council (Appellants)
J St John and S Christensen for Oceana Gold (New Zealand)
Limited (Appellant)
S J Anderson and T M Sefton for Otago Regional Council
(Respondent)

Date of Minute: 12 November 2024

MINUTE OF HARLAND J

[1] I refer to the joint memorandum of counsel for the appellants dated 8 November 2024. The joint memorandum seeks to amend the timetabling directions I made on 7 October 2024 and the parties request that their appeals in relation to the

proposed Otago Regional Policy Statement be placed on hold, with a requirement to prepare a reporting memorandum in four months' time.

[2] I have read the memoranda and I record below the recent changes in circumstances that counsel for the appellants consider are material to the appeals and the reasons they have given for requesting the appeals be placed on hold. Those reasons are:

- (a) An amended package of national direction, including the National Policy Statement for Freshwater Management (NPS-FM) is to be consulted on early in 2025 and the Minister responsible for resource management reform has indicated the amended package is expected to be passed into law in mid 2025. Most of the Fish and Game appeal and all of the Oceana Gold appeal points to be progressed to a hearing relate to the application of the current version of NPS-FM. The appellants are concerned that, depending on the nature of the changes, some or all of the errors of law pleaded might be rendered moot.
- (b) On 24 October 2024, the Government passed the Resource Management (Freshwater and other matters) Amendment Act. The Amendment Act specifically directed that no freshwater planning instrument, that has the purpose of giving effect to the NPS-FM, may be notified before the sooner of either the date on which a new NPS-FM is published under s 54 of the RMA or 31 December 2025. I was advised that the Otago Regional Council had been due to vote to notify its proposed Otago Land and Water Plan on 24 October 2024. However, with the passing of the Amendment Act, the proposed plan was not notified. Counsel for the appellants submit that, given the Amendment Act, the time-related imperative is no longer present.
- (c) There are also three related appeals in respect of which the Court is currently considering a joint memorandum of counsel dated 30 September 2024. If any of these related appeals require hearing time, counsel for these appellants consider it may be appropriate to consolidate them also.

[3] I have not been advised of the other parties response to this memorandum.

[4] There is also an interlocutory application on notice by Kāi Tahu to extend the time for filing a notice under s 301 of the RMA which is relevant to the Oceana Gold appeal. Counsel are requested to address this in a further memorandum.

Directions

[5] I direct that:

- (a) counsel for the other parties (i.e. not the appellants) file memoranda outlining their response to the appellants' joint memorandum by **5.00 pm on 13 November 2024**;
- (b) counsel who are involved in the Oceana Gold appeal are also requested to address what should happen to the interlocutory application by Kāi Tahu, given the appellant's request to place its appeal on hold. This should also be covered in the memoranda directed in (a) above.

Harland J

Counsel:

M Baker-Galloway, Anderson Lloyd for Otago Fish and Game Council and Central South Island Fish and Game Council

J St John and S Christensen for Oceana Gold (New Zealand) Ltd

S J Anderson and T M Sefton, Ross Dowling Marquet Griffin for Otago Regional Council.

Interested Parties in proceeding CIV-2024-412-37:

J St John and S Christensen for Oceana Gold (New Zealand) Ltd

M Downing and P Anderson for Royal Forest & Bird Protection Society Inc

L Burkhardt for Manawa Energy Limited

C Ford and A Cameron for Kāi Tahu

C Thomsen and K Simonsen, Fletcher Vautier Moore for Beef and Lamb New Zealand Ltd

B Irving and P Page, Gallaway Cook Allan for Dairy NZ Ltd and Otago Water Resource User Group Inc.

Interested Parties in proceeding CIV-2024-412-41:

M Downing and P Anderson for Royal Forest & Bird Protection Society Inc

J Campbell and B Watts, Meredith Connell for Queenstown Lakes District Council

L Burkhardt for Manawa Energy Limited

C Thomsen and K Simonsen, Fletcher Vautier Moore for Beef and Lamb New Zealand Ltd

B Irving and P Page, Gallaway Cook Allan for Otago Water Resource User Group Inc.

H Jopp for Federated Farmers of New Zealand Incorporated

M Baker-Galloway and L McLaughlan, Anderson Lloyd for NZSki Limited and Real Group Limited.