

**Before the Environment Court  
at Christchurch**

**ENV-2024-CHC-26**

**I Mua I Te Kōti Taiao o Aoteroa  
Ōtautahi Rohe**

**UNDER** the Resource Management Act 1991

**IN THE MATTER** of appeals under clause 14(1) of the First  
Schedule of the Act in relation to the non-  
freshwater planning instrument parts of the  
proposed Otago Regional Policy Statement  
(PORPS)

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

**Appellant**

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

**Respondent**

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**Notice of Oceana Gold (New Zealand) Limited's wish to be a party to  
proceedings pursuant to section 274 RMA**

**Dated 5 June 2024**

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**Solicitor acting:**

Jackie St John  
In-house counsel  
22 Maclaggan St  
Dunedin 9016  
Jackie.stjohn@oceanagold.com

**Counsel acting:**

Stephen Christensen  
Project Barrister  
421 Highgate, Dunedin 9010  
P 027 448 2325  
stephen@projectbarrister.nz

**TO: THE REGISTRAR**

Environment Court

Christchurch

1. Oceana Gold (New Zealand) Limited (**OceanaGold**) wishes to be a party to the following proceedings:  
*Royal Forest and Bird Protection Society of New Zealand Incorporated v Otago Regional Council (ENV-2024-CHC-26).*
2. OceanaGold made a submission on the subject matter of the proceedings.
3. OceanaGold is not a trade competitor for the purposes of section 308C or 308CA of the Act.
4. OceanaGold is interested in the parts of the proceeding which relate to the following particular issues:
  - a. Definition of highly valued natural features and landscapes
  - b. Definition of rural area
  - c. IM-O4 climate change and IM-P10 climate change adaptation and mitigation
  - d. LF-FW-P13 Preserving natural character and instream value.
  - e. LF-LS-M12- District plans
  - f. ECO-O1 – Indigenous biodiversity;
  - g. ECO-O2 – Restoring or enhancing;
  - h. ECO-P3 – Protecting significant natural areas and taoka;
  - i. ECO P4 – Provision for new activities;
  - j. ECO-P5A – Managing adverse effects of established activities on significant natural areas;
  - k. ECO-P6 – Maintaining indigenous biodiversity;

- l. ECO-P8 – Restoration and enhancement;
- m. ECO-P10 – Integrated approach;
- n. ECO-M2 – Identification of significant natural areas;
- o. ECO-M4 – Regional plans;
- p. ECO-M5 – District plans;
- q. HAZ-NH-O1 – Natural hazards;
- r. HAZ-NH-P1 Identifying areas subject to natural hazards;
- s. UFD-O4 – development in rural areas; and
- t. UFD-P7 – Rural areas.

5. OceanaGold opposes the relief sought because.

- a. The amendments sought to the provisions noted in 4(a) and 4(c) to (t) above are not consistent with the Resource Management Act 1991 (**the Act**).
- b. There is no directive in the Act to identify and manage highly valued natural features and landscapes and therefore a definition is not needed.
- c. The proposed changes to IM-4 and IM-P10 are unnecessary and create more onerous obligations.
- d. The Decision version of the LF-FW-P13 says “to the greatest extent practicable” which is more appropriate wording as it takes into account whether something is feasible and practicable. “Possible” is too broad and onerous.
- e. The proposed changes to LF-FW-P13 fail to recognise the difficulties in ascertaining the “naturalised” flow of a waterbody.
- f. Inserting “avoiding” in LF-LS-M12 does not promote sustainable management.
- g. The Decisions version of ECO-O1 is consistent with the purpose of the Act and the National Policy Statement for Indigenous Biodiversity (**NPSIB**).

- h. The proposed addition of “quality, quantity, diversity” to ECO-O2 is subjective and fails to appreciate the difficulty in accurately establishing quantity in some instances. “Enhancement” is a resource management term which is already understood and used in the Act, see for example section 7 and section 30. “Enhancement” provides recognition that biodiversity offsetting and compensation may occur over long time periods, and therefore “enhancement” is a more appropriate term than “improvement”.
- i. ECO-P3 does give effect to the NPSIB. The Appellant is seeking a new clause be added, however the identification of significant natural areas is dealt with in ECO-P2.
- j. Forest and Bird’s submission on ECO-P4 had not identified issues around “specified highly mobile fauna”, therefore despite the points raised in the Appellant’s Notice of Appeal, it is unclear to OceanaGold why further amendments to ECO-P4 are needed.
- k. ECO-P4(1A) already says that there must be a functional or operation need and no practicable alternative locations. No further clauses are needed to address this.
- l. ECO-P5A refers to activities as at 4 August 2023. This defines an existing activity and adding a definition could lead to confusion rather than clarification.
- m. ECO-P6 is already clear and no further amendment is required.
- n. The proposed addition of “quality, quantity, diversity” to ECO-P8 is subjective and fails to appreciate the difficulty in accurately establishing quantity in some

instances. “Enhancement” is a resource management term which is already understood and used in the Act, see for example section 7 and section 30. “Enhancement” provides recognition that biodiversity offsetting and compensation may occur over long time periods, and therefore “enhancement” is a more appropriate term than “improvement”.

- o. The ECO policies need to implement the ECO objectives and therefore it is appropriate that ECO-P10(1) cross-references ECO-O1.
- p. The NPSIB has established a process for identifying and mapping SNAs. The changes promoted by the Appellant are not justified.
- q. The proposed changes to ECO-M4 and ECO-M5 appear to introduce a “veto” whereby consent can be declined “due to locational circumstances and to achieve other policy and objectives of the RPS”. First, it is unclear what “locational circumstances” would be, however on its face this phrase is broad and subjective. Secondly, the Appellant’s proposed wording appears to be an attempt to cut across other provisions in the RPS which give effect to the NPSIB and provide consenting pathways for projects and developments. If those activities meet the stipulated criteria there should not be a further ability for declining consent because of “locational circumstances” (especially as functional and location needs and alternatives are already addressed under ECO-P4), or to achieve other policy and objectives. Thirdly, if the Appellants are seeking a provision which addresses conflicts between policies, it should be in an issue, objective or policy rather than in a method.

- r. With respect to HAZ-NH-O1 and HAZ-NH-P1, it not clear what ramification the addition of “ecosystem health and indigenous biodiversity” would have to managing and identifying natural hazards.
  - s. UFD-O4 is an enabling objective which gives effect to the enabling component of section 5.
  - t. The Appellants proposed amendments will not recognise the social and economic benefits of primary production activities such as mining.
6. OceanaGold supports the appeal on “rural area” insofar as it seeks a distinction for some areas such as national parks to be excluded. This is similar to the point raised by OceanaGold in its own appeal (ENV-2024-CHC-29) that areas zoned as special purpose zones for mining should be excluded from the definition of rural area as they are areas where mining is clearly anticipated.
7. OceanaGold agrees to participate in mediation or other alternative dispute resolution of the proceedings.

Dated this 5<sup>th</sup> day of June 2024

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SW Christensen/JE St John  
Counsel for Oceana Gold (New Zealand) Limited

The address for service of the appellant is 22 Maclaggan 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 22 Maclaggan Street, Dunedin or

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