

In the High Court of New Zealand
Dunedin Registry

I Te Kōti Matua O Aotearoa
Ōtepoti Rohe

CIV- 2024-412-37
CIV-2024-412-41

Under the Resource Management Act 1991 (**Act**)

In the matter of an appeal under clause 56 of Schedule 1 of the Act

Between **Otago Fish and Game Council and Central South Island
Fish and Game Council** CIV-2024-412-37

Appellant

Oceana Gold (New Zealand) Limited CIV-2024-412-41

Appellant

Otago Regional Council, being a regional council under
Schedule 2 of the Local Government Act 2002

Respondent

**Joint memorandum of counsel on behalf of Otago and Central South
Island Fish and Game Councils and Oceana Gold (New Zealand) Limited**

14 November 2024

Fish and Game's solicitors:

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May it please the Court

- 1 This joint memorandum of counsel is filed in response to the memorandum of Otago Regional Council¹ (**Respondent**), opposing Otago Fish and Game Council and Central South Island Fish and Game Council (**Fish and Game**) and Oceana Gold (New Zealand) Limited's (**Oceana Gold**) (together the **Appellants**) request for their appeals in respect of the proposed Otago Regional Policy Statement, to be placed on hold².
- 2 Having reviewed the positions of the Respondent and various section 301 parties, including the Royal Forest and Bird Protection Society Incorporated³, Kāi Tahu⁴, Manawa Energy Limited⁵ and Beef+Lamb New Zealand Limited⁶ (together, the **Parties**), the Appellants wish to clarify the intention of their original request.
- 3 The Appellants submitted that upcoming, unknown government amendments to the National Policy Statement for Freshwater Management (**NPS-FM**), combined with non-notification of the Otago Land and Water Regional Plan could render the main grounds for their appeals⁷ (**Appeals**) moot.
- 4 The Appellants did not intend to cause confusion by suggesting a 'consolidation' of related appeals (Kāi Tahu CIV-2024-412-38, Queenstown Lakes CIV-2024-412-40 and Forest and Bird 2024-412-42), in light of these government changes. Similarly, the Appellants are not seeking adjournment of the determination of those consent orders⁸.
- 5 Consolidation was suggested on the basis that *if* the Court determined those related appeals also required a hearing, it would be more efficient for all parties' appeals to be heard sequentially, alongside the Appeals. Placing these proceedings on hold, until a determination on the related appeals is

¹ Memorandum of the Otago Regional Council in reply to the joint memorandum dated 8 November 2024 of Otago Fish and Game Council and Central South Island Fish and Game Council and Oceana Gold (New Zealand) Limited, dated 12 November 2024.

² Joint Memorandum of counsel for the appellants requesting appeals be placed on hold, dated 8 November 2024.

³ Memorandum of counsel for Royal Forest and Bird Protection Society of New Zealand Incorporated, dated 12 November 2024.

⁴ Memorandum of counsel for Kāi Tahu in response to joint memorandum of counsel for Fish and Game and Oceana Gold Limited, dated 13 November 2024.

⁵ Memorandum of counsel on behalf of Manawa Energy Limited, dated 13 November 2024.

⁶ Memorandum of counsel in reply to joint memorandum of Otago Fish and Game Council and Central South Island Fish and Game Council and Oceana Gold (New Zealand) Limited for Beef + Lamb New Zealand Limited, dated 13 November 2024.

⁷ CIV-2024-412-37 and CIV-2024-412-41.

⁸ Joint Memorandum of Counsel seeking consent orders, dated 30 September 2024.

made, would save the Court and parties from incurring additional time and costs.

- 6 The Appellants agree with what was originally submitted in the Joint Memorandum of Counsel seeking consent orders dated 30 September 2024. The Appellants confirm that if the Court confirms errors of law have been made, the Appellants support the request that the Court substitute its own judgment⁹. It was only in the event the Court might seek to have a hearing in respect of these matters before making final determinations, that the Appellants raised the issue.
- 7 The Appellants are not seeking consolidation of the related appeals nor are they seeking subsequent adjournment of the determination of consent orders. The Appellants maintain their position their Appeals should be placed on hold in consideration of upcoming government amendments and Court timetabling and apologise for any confusion that may have occurred.

Dated this 14th day of November 2024

Maree Baker-Galloway

Maree Baker-Galloway
Counsel for Otago Fish and Game Council and Central South Island Fish and Game Council

P. Walker

Stephen Christensen/Philippa Walker
Counsel for Oceana Gold (New Zealand) Limited

⁹ Joint Memorandum of counsel seeking consent orders, dated 30 September 2024, at [161].