

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY**

**I TE KŌTI TAIAO O AOTEAROA
ŌTAUTAHĪ ROHE**

UNDER the Resource Management Act 1991 (RMA)

IN THE MATTER of appeals under Clause 14 of the First Schedule of the
RMA

BETWEEN **SOUTHLAND FISH & GAME COUNCIL**
(ENV-2018-CHC-037)

(Continued next page)

LEGAL SUBMISSIONS ON BEHALF OF SOUTHLAND REGIONAL COUNCIL

24 June 2026

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AND

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

(ENV-2018-CHC-050)

Appellants

AND

SOUTHLAND REGIONAL COUNCIL

Respondent

MAY IT PLEASE THE COURT

- 1 These legal submissions are filed on behalf of the Southland Regional Council (**Council**) in respect of the above proceedings.
- 2 These submissions respond to the Court's Minute dated 17 June 2026 requesting brief legal submissions regarding the Council's position on the recent legislative changes pertaining to the timeframes for submitting freshwater farm plans for certification.

Introduction

- 3 As set out in our in our memorandum dated 4 May 2026, the timeframe for submitting freshwater farm plans (**FEMPs**) for certification in the Southland region has been extended.¹ The extension was effected through the Resource Management (Freshwater Farm Plans) Amendment Regulations 2026 (**Amendment Regulations**), which came into force on 26 May 2026. Under the Amendment Regulations, a FEMP for a farm in the Southland region must be submitted to a certifier by the later of 27 November 2027 or 18 months after the date on which the farm meets the land use threshold under section 217D of the RMA.
- 4 The previous certification deadline was 27 May 2026 (being 18 months from the date of the Resource Management (Application of Part 9A – Freshwater Farm Plans: Southland) Order 2024). The effect of the Amendment Regulations is that the deadline for submitting a FEMP for certification has been extended to 27 November 2027.

Council's position at hearing

- 5 The Council's case at the hearing rested on two pillars in support of its position that Rule 24 satisfies section 70(3) of the RMA:

¹ Proposed Southland Water and Land Plan, Appendix N states:

- (1) A Farm Environment Management Plan must be:
 - (a) a Freshwater Farm Plan prepared, implemented and audited in accordance with regulations prepared under Part 9A RMA and which apply within the Southland region, plus any additional information or components required by Part B below; or
 - (b) if Freshwater Farm Plans, under Part 9A RMA, are not yet required in the Southland region, a Farm Environmental Management Plan will be prepared and implemented in accordance with Parts A to C below.

- (a) The first pillar comprises the mitigation set out in the conditions of the permitted activity rules cross-referenced in Rule 24 (being Rules 20, 20A, 20B, 25, 35A, 35B and 70), which require good management practices to be undertaken immediately. The Council's evidence was that those provisions will contribute to a reduction of the effects listed in section 70(1)(d), (f) and (g) over a period of time no greater than 10 years.
- (b) The second pillar comprises the property-specific mitigation to be implemented through FEMPs. The Council's evidence was that FEMPs would contribute to that reduction because they were required to be submitted for certification well within the 10 year timeframe specified in section 70(3)(c)(i), and the objectives and requirements of Appendix N (including the minimisation of contaminant losses and, for farms in Schedule X catchments, the reduction of adverse effects on water quality) would drive reductions in contaminants of concern.

Implications for the Council's Position

First pillar unaffected

- 6 The first pillar is unaffected by the change in FEMP certification timeframes. The conditions of the cross-referenced permitted activity rules require good management practices to be undertaken immediately, and the Court can remain satisfied that reductions occurring as a result of those conditions will occur over a period of time no greater than 10 years.

Second pillar still remains, but commencement delayed

- 7 As submitted above, the Council's position is that the first pillar alone is such that the Court can be satisfied that the requirements of section 70(3) are met. In any event, the Council's position remains that the implementation of FEMPs further supports a conclusion that section 70(3) is met by Rule 24, notwithstanding the extension of the date for submitting the FEMP for certification.
- 8 The extension of the date to 27 November 2027 does not undermine this position. The requirement remains that FEMPs must be submitted for

certification within a defined period. Once certified, the mitigation actions specified in FEMPs must be implemented in accordance with the timeframes set out in those plans. The reductions in contaminants of concern attributable to FEMP implementation will still occur within the 10-year period commencing on the date Rule 24 becomes operative. The consequence of the Amendment Regulations is that there may be a delay through to 27 November 2027 of FEMPs being submitted for certification. The Amendment Regulations do not remove the requirement for FEMPs, it simply delays the date that FEMPs must be submitted for certification.

- 9 At the hearing, Commissioner Hardy explored the question of timing with Mr Norton.² Commissioner Hardy put to Mr Norton that farm environment plans were not required to be certified until May 2026 and asked whether, taking into account the time required for certification, consenting, and implementation, there would still be a reduction within 10 years. Mr Norton accepted the premise of the questioning but confirmed his view that reductions would occur, relying on his mechanistic understanding of how mitigations produce benefits. It is submitted that the extension of the certification deadline by 18 months does not alter the substance of that evidence. The critical point is that the delay is modest relative to the 10-year period, and reductions in contaminants — particularly in sediment and phosphorus, which respond more quickly to mitigation — will still occur well within that timeframe.
- 10 Similarly, in his examination in chief, Mr McCallum-Clark referred to a published technical report³ that showed Southland aquifers are predominantly shallow and unconfined, with short residence times of approximately two to five years. Mr McCallum-Clark went on to say that in planning terms, that means that there are responses in surface water or ground water and consequently surface water relatively quickly to changes in inputs.⁴

² Notes of Evidence, p 123, line 18.

³ Exhibit 6: Estimating time lags for nitrate response in shallow Southland groundwater, technical report dated April 2014.

⁴ Notes of Evidence, p 213, line 32.

- 11 It is submitted that the reductions attributable to FEMPs will still occur during the 10 year period commencing on the date that Rule 24 becomes operative, notwithstanding the 18 month extension to the date by which such plans need to be submitted for certification.

Conclusion

- 12 For the reasons set out above, it is submitted that the extension to the FEMP certification timeframe does not result in any material change to the Council's position.
- 13 The Court is able to proceed on the basis of the evidence already before it. The extension does not affect the Council's position that section 70 of the RMA is satisfied by Rule 24, in combination with other provisions of the Plan, and accordingly does not affect the relief supported by the Council.

DATED this 24th day of June 2026.



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P A C Maw | Michelle Mehlhopt

Counsel for the Southland Regional Council