

In the Environment Court of New Zealand

Christchurch Registry

ENV-2018-CHC-000039

Under

the Resource Management Act 1991
(RMA)

In the matter of

on an appeal under clause 14 of
Schedule 1 of the Act in relation to
Decisions on the Proposed Southland
Water and Land Plan

Between

Alliance Group Limited

Appellant

And

Southland Regional Council

Respondent

**Notice of Southland Fish and Game Council's wish to be party to proceedings
pursuant to section 274 of the Resource Management Act 1991**

Dated this 22nd day of June 2018

To: The Registrar
Environment Court
Level 1, District Court Building
282 Durham Street
Christchurch 8013

Postal address: PO Box 2069
Christchurch 8013

1. Southland Fish and Game Council (**Fish and Game**) wish to be a party pursuant to section 274 of the Resource Management Act 1991 (**the RMA**) to the following proceedings:
 - a. the appeal against part of the decision of the Southland Regional Council (**the Council**) on the Proposed Southland Water and Land Plan (**the Proposed Plan**) by Alliance Group Limited (**the Appellant**), ENV-2018-CHC-000039.
2. Fish and Game made a submission and further submission on the Proposed Southland Water and Land Plan.¹
3. Fish and Game also has an interest in these proceedings greater than the general public in that:
 - a. It is the statutory manager of sports fish and game birds within the Southland Fish and Game region under Parts 5A and 5B of the Conservation Act 1987 and Part II of the Wildlife Act 1953 and their associated regulations and notices; and
 - b. Fish and Game Councils are statutory bodies with functions under s 26Q of the Conservation Act 1987 to manage, maintain, and enhance the sports fish and game resource in the recreational interests of anglers and hunters,² including in particular:
 - i. Assessing and monitoring sports fish and game populations;³
 - ii. Assessing and monitoring condition and trend of ecosystems as habitats for sports fish and game;⁴
 - iii. To maintain and improve the sports fish and game resource,⁵ including by:
 - Maintaining and improving access;⁶ and
 - Undertaking works to maintain and enhance the habitat of sports fish and game;⁷

¹ Submitter number 752.

² Section 26Q(1) of the Conservation Act 1987.

³ Section 26Q(1)(a)(i) of the Conservation Act 1987.

⁴ Section 26Q(1)(a)(iii) of the Conservation Act 1987.

⁵ Section 26Q(1)(b) of the Conservation Act 1987.

⁶ Section 26Q(1)(b)(i) of the Conservation Act 1987.

- iv. Promoting recreation based on sports fish and game;⁸ and
 - v. In relation to planning to:
 - To represent the interests and aspirations of anglers and hunters in the statutory planning process;⁹ and
 - To advocate the interests of the Fish and Game Council, including its interests in habitats.¹⁰
4. Fish and Game is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991.
5. Fish and Game is directly affected by an effect of the subject of the that appeal that:
- a. Adversely affects the environment; and
 - b. Does not relate to trade competition or the effects of trade competition.
6. Fish and Game is interested in all the proceedings.
7. Without limiting the above, Fish and Game is interested in the following particular issues:
- a. Objective 11;
 - b. Policy 14 . Preference for discharges to land;
 - c. Policy 15A . Maintain water quality where standards are met;
 - d. Policy 15B . Improve water quality where standards are not met;
 - e. Policy 15C . Maintaining and improving water quality after FMU processes;
 - f. Policy 16A . Industrial and trade processes that may affect water quality;
 - g. Policy 20 . Management of water resources;
 - h. Rule 5 . Discharges to surface waterbodies;
 - i. Rule 6 . Discharges to surface waterbodies that do not meet water quality standards;
 - j. Rule 49 . Abstraction, diversion and use of surface water;

⁷ Section 26Q(1)(b)(v) of the Conservation Act 1987.

⁸ Section 26Q(1)(c)(ii) of the Conservation Act 1987.

⁹ Section 26Q(1)(e)(i) of the Conservation Act 1987.

¹⁰ Section 26Q(1)(e)(vii) of the Conservation Act 1987.

- k. Rule 50 . Community water supply;
 - l. Appendix E . Receiving water quality standards;
 - m. Appendix G . Popular bathing sites; and
 - n. Appendix R . Fish screening standards and guidelines.
8. The particular issues and whether Fish and Game supports, opposes or conditionally opposes the relief sought are set out in the attached table . Attachment 1.
9. Fish and Game agree to participate in mediation or other alternative dispute resolution of the proceedings.

Dated this 22nd day of June 2018



Signed: Zane Moss - Manager
Southland Fish and Game Council

Address for service for Southland Fish and Game Council:

Contact: Ben Farrell

Physical address: Level 2, 36 Shotover Street
Queenstown, 9300

Postal address: PO Box 95
Queenstown 9300

Email: ben@jea.co.nz

Telephone: 021 767 622

Contact persons at Southland Fish and Game Council:

Name: Zane Moss . Manager
Phone: (03) 215 9117 or 021 244 5384
Email: Zane@southlandfishgame.co.nz
or
Name: Jacob Smyth . Resource Management Officer
Phone: (03) 215 9117 or 021 280 0755
Email: Jacob@southlandfishgame.co.nz

Attachment 1

Provision of Proposed Southland Water and Land Plan appealed by Alliance Group Ltd	Relief sought by Alliance Group Ltd	Scope for s 274 – Southland Fish and Game Council submission point reference	Support / oppose	Reasons
Objective 11	Amendment of Objective 11 to include the following words: <i>“Water is allocated and used efficiently <u>having had regard to the primacy of community water supplies and priority takes</u> . . .”</i>	752.27 + further submission on 65.23)	Oppose	The focus of Objective 11 is all water takes and use, regardless of use. The change sought by the Appellant appear to indicate that the framework should be different for community water takes and priority takes, however, all water use should be efficient and reasonable for its intended use.
Policy 14	Amendment of Policy 14 to provide for recognition of practical reasons why a discharge to land is not appropriate, even when the effects of discharging to water may be greater than a hypothetical discharge to land.	752.58 + further submissions on 17.18 and 52.2	Oppose	Often there are less adverse effects associated with a discharge to land if managed appropriately compared to a discharge to surface water. Policy 14, as set out in the decision version of the Proposed Plan, helps to promote land discharge in preference to discharge to water. The proposed amendment to Policy 14 diminishes its overall intent.
Policies 15A . 15C and 16A	Deletion of Policies 15A and 15B, which are to be replaced with a New Policy 15. Retention of Policy 16A and	752.59 and 752.60 + further submissions on Policy 15 (17.19) and Policy 16 (210.55, 265.47 and 279.24)	Oppose	Policy 15 as sought does not provide for maintaining or improving water quality. Introducing the term where practicable+does not provide certainty that the line will be held against further water quality degradation where it does not meet water quality standards in Appendix E of the Proposed Plan.
Policy 20	Deletion of reference to Appendix O in Policy 20 be deleted, or Appendix O be amended to acknowledge there are practical limits to improving water efficiency in older industrial and trade processes.	Policy 20 - 752.64 and 752.142 + further submissions on 172.9, 210.58 and 277.27	Oppose	Policy 20 aims to ensure water use is efficient and reasonable and the volume specified on water permits to take and use water are no more than reasonable for the intended use. Appendix O sets out how efficiency in water use will be determined and is important in ensuring that the Objectives of Proposed Plan and NPS-FWM are met.

Provision of Proposed Southland Water and Land Plan appealed by Alliance Group Ltd	Relief sought by Alliance Group Ltd	Scope for s 274 – Southland Fish and Game Council submission point reference	Support / oppose	Reasons
		Appendix O . 752.191 + further submission on Appendix O (47.28)		<p>The Appellant's Notice of Appeal does not identify the extent to which its existing plants and associated technology are using comparatively more water for meat processing than new processing plants that have implemented best management practices for efficient water use.</p> <p>The proposed amendments to Policy 20 and / or Appendix O to make provision for inefficient use of water in older industrial and trade processes is inconsistent with Objective B3 and Policy B4 of the NPS-FWM</p>
Rules 5 and 6	<p>Amendment of Rules 5 and 6 so that:</p> <ol style="list-style-type: none"> 1. Achieving the standards in Appendix E (water quality standards) and Appendix c (ANZECC sediment guidelines) is not determinative of activity status from the Appellant's meat processing plants; and 2. Replacement consents for existing discharge activities are discretionary activities. 	752.97 and 752.98 + further submissions on Rule 5 (17.25, 249.16, 265.74, 279.60, 390.21, 562.11, 622.14 and 750.9) and Rule 6 (17.26, 265.75, 390.22, 411.24, 562.12, 622.15 and 750.10)	Oppose	<p>Rules 5 and 6 and Appendix E of the Proposed Plan are essentially unchanged from the existing Regional Water Plan for Southland.¹¹</p> <p>Non-complying activity status in Rule 6 is more appropriate in respect of the overarching requirement in the Proposed Plan that water quality be maintained in relation to discharges to surface water that either:</p> <ol style="list-style-type: none"> 1. Reduce water quality below Appendix E standards where water quality upstream of the discharge meets those standards; or 2. Further reduces water quality below Appendix E standards where water quality upstream of the discharge does not meet those standards.

¹¹ See Rule 1 (discharges to surface water bodies that meet water quality standards), Rule 2 (discharges to surface water bodies that do not meet water quality standards) and Appendix G (water quality standards) as set out in the Regional Water Plan for Southland.

Provision of Proposed Southland Water and Land Plan appealed by Alliance Group Ltd	Relief sought by Alliance Group Ltd	Scope for s 274 – Southland Fish and Game Council submission point reference	Support / oppose	Reasons
				<p>The Appellant's Notice of Appeal does not address the extent to which discharges from its meat processing plants to surface water are either:</p> <ol style="list-style-type: none"> 1. Reducing water quality below Appendix E standards where water quality upstream of the discharge meets those standards; or 2. Further reducing water quality below Appendix E standards where water quality upstream of the discharge does not meet those standards. <p>Non-complying activity status does not prevent consent being granted.</p> <p>The proposed amendments to Rules 5 and 6 do not support the overarching requirement that the quality of water be maintained nor give effect to higher order policy directions.</p> <p>It is not clear whether the Appellant's proposed amendments to Rules 5 and 6 are specific to its meat processing plants or apply across all discharge activities.</p>
Rule 49	<p>Amend Rule 49 to provide for all non-consumptive take, diversion and use of water as a restricted discretionary activity; and</p> <p>Amend Appendix R so that it only applies to permitted activities or is deleted.</p>	752.142 + further submission on 17.42, 247.14, 265.100, 279.95, 288.33, 350.2, 368.6, 414.9, 464.24 and 611.10	Oppose	<p>Non-complying activity status is more appropriate than restricted discretionary status for water diversion and take activities that do not comply with the conditions of Rules 49(a), 49(ab), 49(b), 49(c), 50(a), 50(b), 51(a), 51(b), and 51(c).</p> <p>Fish screening standards set out in Appendix R, which is linked to Rule 49, are required to mitigate the effects of water diversions and takes, including non-consumptive takes, to enable migrating and resident fish safe passage by</p>

Provision of Proposed Southland Water and Land Plan appealed by Alliance Group Ltd	Relief sought by Alliance Group Ltd	Scope for s 274 – Southland Fish and Game Council submission point reference	Support / oppose	Reasons
				preventing loss through entrainment and impingement. However, in order to be effective fish screens, need to be designed / constructed to meet specified criteria. The design criteria set out in Appendix R is based upon NIWA fish screening guidelines for protection of indigenous and sports fish in relation to surface water takes up to 10m /s. The Appellant's Notice of Appeal does not address why the standards in Appendix R are inappropriate.
Rule 50	Amend Rule 50 to provide for existing priority takes and use of water as a controlled activity.	752.143 + further submissions on 17.43, 279.96 and 390.33	Oppose	<p>Controlled activity status in Rule 50 for priority takes is inappropriate for the following reasons:</p> <ol style="list-style-type: none"> 1. Rule 50 is intended to apply to community water supply. 2. Priority takes can impact upon ecological, cultural and recreational values and impact on other takes. It is important that they are assessed through a robust consent process to enable affected parties to be involved; and 3. Council must grant consent for resource consent applications for controlled activities. As a controlled activity under Rule 50 for priority takes <ol style="list-style-type: none"> a. The Proposed Plan will be unable to give effect to the NPS-FWM, including Objectives A1- A4, Policies A1 . A3, A5 and A7, Objectives B1 . B5, Policies B1, B2 and B4 . B7, Objective C1 and Policy C1. The Proposed Plan will only give effect to the NPS-FWM if the renewal of water takes and use consents requires assessment as a discretionary activity; and

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				b. Council will be significantly hindered in its ability to reduce the volume of take in future renewal consents irrespective of limit setting or allocations findings.
Appendix E	Amend the water quality standards in Appendix E to take account of existing land use, existing water quality and natural variability.	752.180 + further submission on 17.45, 189.47, 265.107, 279.116 and 355.15	Oppose	<p>Prior to the more specific FMU limit setting process, Appendix E provides water quality standards that are intended to maintain water quality.¹² Further, Appendix E of the Proposed Plan are essentially unchanged from the existing Regional Water Plan for Southland.¹³ A number of the water quality standards in Appendix E are representative of water quality degradation.</p> <p>Amending the water quality standards in Appendix E downward to take account of existing water quality degradation and natural variability is inconsistent with sustainable management and the overarching requirement in the Proposed Plan that the quality of water be maintained. Further, the approach is inconsistent with Objectives A1 . A4 and Policies A1 . A7 of the NPS-FWM.</p>
Appendix G	Deletion of Mataura River at Mataura River Bridge from the list of popular bathing sites in Appendix G.	752.182	Oppose	The Mataura River at Mataura Bridge is a popular bathing site, particularly for residents of Mataura township. The Appellant's Notice of Appeal does not dispute the popularity of bathing in the Mataura River at Mataura Bridge, rather it focuses on issues with respect to compliance with the contact recreation water quality standards in Appendix E due to the effects of the discharge from its Mataura meat processing plant to the Mataura River. Further, the Appellant's Notice of

¹² Section 42A hearing report . Para 7.344, p. 229

¹³ See Appendix G (water quality standards) as set out in the Regional Water Plan for Southland.

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				<p>Appeal does not address public health considerations, including the extent to which its discharge to the Mataura River is resulting in exceedances at Mataura Bridge of the contact recreation water quality standards in Appendix E, particularly over the summer period when swimming is more likely to occur.</p> <p>The effect of the Appellant's Notice of Appeal is that no sites on the Mataura River downstream of Woolwich Street Reserve at Gore, irrespective of bathing popularity, are required to comply contact recreation water quality standards in Appendix E.</p> <p>The proposed relief does not give effect to Objective A1(b) and Policy A5 of the NPS-FWM.</p>
Appendix R	Amend Appendix R so that it only applies to permitted activities or is deleted.	752.142	Oppose	<p>Fish screening standards set out in Appendix R, which is linked to Rule 49, are required to mitigate the effects of water diversions and takes, including non-consumptive takes, to enable migrating and resident fish safe passage by preventing loss through entrainment and impingement. However, in order to be effective, fish screening needs to be appropriately designed to meet specified criteria. Appendix R is based upon NIWA fish screening guidelines for protection of indigenous and sports fish in relation to surface water takes up to 10m /s. The Appellant's Notice of Appeal does not address why the standards in Appendix R are inappropriate.</p>