

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-37

Under	the Resource Management Act 1991 (RMA)
In the matter of	an appeal under Clause 14(1) of Schedule 1 of the RMA in relation to the proposed Southland Water and Land Plan (pSWLP)
Between	Southland Fish and Game Council Appellant
And	Southland Regional Council (Environment Southland) Respondent

Notice of Gore District Council, Southland District Council and Invercargill City Council (Territorial Authorities) wish to be party to proceedings pursuant to section 274 RMA

22 June 2018

Territorial Authorities' solicitors:
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lloyd.**

To: The Registrar
Environment Court
Christchurch

1 Gore District Council, Southland District Council and Invercargill City Council (**Territorial Authorities**) wish to be a party pursuant to section 274 of the RMA to the following proceedings:

Southland Fish and Game Council v Southland Regional Council (ENV-2018-CHC-37) being an appeal against decisions of Environment Southland on the proposed Southland Water and Land Plan (**pSWLP**).

2 Gore District Council, Southland District Council and Invercargill City Council are the three territorial authorities located within the Southland region.

3 The Territorial Authorities have made both joint and individual submissions on the pSWLP.

4 The Territorial Authorities have lodged an appeal in relation to the pSWLP (**ENV-2018-CHC-31**).

5 The Territorial Authorities are not trade competitors for the purposes of section 308C or 308CA of the RMA.

6 The Territorial Authorities have a responsibility for Southland's infrastructure, stormwater and community sewerage schemes.

7 The parts of the proceedings the Territorial Authorities are interested in, including the particular issues and whether the Territorial Authorities support, oppose or conditionally oppose the relief sought are set out in the **attached** table.

8 The Territorial Authorities agree to participate in mediation or other alternative dispute resolution of the proceedings.

Dated this 22nd day of June 2018



Michael Garbett | Rachel Brooking
Counsel for Territorial Authorities

Address for service of person wishing to be a party

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Advice

If you have any questions about this notice, contact the Environment Court in Christchurch.

Table: Gore District Council, Southland District Council and Invercargill City Council (**Territorial Authorities**) section 274 notice – **Southland Fish and Game Council ENV-2018-CHC-37**

Part of the proceedings	Relief sought by Appellant	Issues	Support, Oppose, or Conditionally oppose	Reasons
<p>Objective 6</p>	<p>Amend Objective 6 to provide as follows: “Objective 6 <i>There is no reduction in the overall quality of freshwater, and water in estuaries and coastal lagoons, by...</i></p>	<ul style="list-style-type: none"> • Deletion of the word "overall". 	<p>Oppose</p>	<ul style="list-style-type: none"> • The proposed change of wording could have consequences for water quality that are not consistent with the National Policy Statement for Freshwater Management 2014 (amended 2017). • The proposed change of wording is not consistent with Objective 9B.
<p>Objective 7</p>	<p>Amend Objective 7 to provide as follows: “Objective 7 <i>Any further over-allocation of freshwater (water quality and quantity) is avoided and any existing over-allocation is phased out in accordance with freshwater objectives, freshwater quality limits and timeframes established under Freshwater Management Unit processes <u>or earlier when considering relevant consent applications.</u>”</i></p>	<ul style="list-style-type: none"> • Addition of "relevant consent applications". 	<p>Oppose</p>	<ul style="list-style-type: none"> • The proposed change of wording could have undesirable consequences on consent application processes. • The proposed change of wording is not consistent with Objective 9B.
<p>Objective 9B</p>	<p>“Objective 9B <i>The effective development, operation, maintenance and upgrading of Southland's regionally significant, nationally significant and critical infrastructure is enabled <u>recognised and provided for.</u>”</i></p>	<ul style="list-style-type: none"> • Recognition of Southland's regionally significant, nationally significant or critical infrastructure. 	<p>Oppose</p>	<ul style="list-style-type: none"> • The proposed change of wording could have undesirable consequences for Southland's regionally significant, nationally significant and critical infrastructure. • The proposed change to Objective

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				9B does not properly give effect to higher order documents or the purpose of the RMA.
Objective 13	<p>Amend Objective 13 to provide as follows:</p> <p>“Objective 13</p> <p><i>Enable the use and development of land and soils to support the economic, social, and cultural wellbeing of the region <u>provided</u>:</i></p> <p><i>(a) <u>Land use activities or discharges to land that have significant or cumulative adverse effects on the quantity, quality and structure of soil resources are avoided;</u></i></p> <p><i>(b) <u>The discharges of contaminants to land or water that have significant or cumulative adverse effects on human health are avoided; and</u></i></p> <p><i>(c) <u>Significant or cumulative adverse effects on surface and groundwater quality, surface and groundwater quantity, aquatic ecosystem health, life-supporting capacity, mahinga kai, outstanding natural features and landscapes, indigenous vegetation and fauna, recreational values, amenity values and natural character are avoided.</u>”</i></p> <p>Or:</p> <p>Objective 13</p> <p><i>Enable the use and development of land and</i></p>	<ul style="list-style-type: none"> • Use of the word "avoid". 	Oppose	<ul style="list-style-type: none"> • The proposed change of wording uses the word "avoid" which is too restrictive for such an objective in the pSWLP.

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	<p><i>soils to support the economic, social, and cultural wellbeing of the region <u>provided</u>:</i></p> <p><i>(a) <u>Land use activities or discharges to land that have adverse effects (including cumulative adverse effects) on the quantity, quality and structure of soil resources are avoided;</u></i></p> <p><i>(b) <u>The discharges of contaminants to land or water that have adverse effects (including cumulative adverse) effects on human health are avoided; and</u></i></p> <p><i>(c) <u>Adverse effects (including cumulative adverse effects) on surface and groundwater quality, surface and groundwater quantity, aquatic ecosystem health, life-supporting capacity, mahinga kai, outstanding natural features and landscapes, indigenous vegetation and fauna, recreational values, amenity values and natural character are avoided.</u></i></p>			
Objective 13A	<p>Delete Objective 13A as follows:</p> <p>“Objective 13A</p> <p><i>The quantity, quality and structure of soil resources are not irreversibly degraded through land use activities or discharges to land.”</i></p>	<ul style="list-style-type: none"> • Deletion of Objective 13A. 	Conditionally oppose	<ul style="list-style-type: none"> • The proposed deletion could have consequences on Southland's land, soil and water resources. • The proposed change of wording is not consistent with Objective 9B.
Objective 13B	Delete Objective 13B as follows:	<ul style="list-style-type: none"> • Deletion of Objective 13B. 	Conditionally	<ul style="list-style-type: none"> • The proposed deletion could have

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	<p>“Objective 13B The discharges of contaminants to land or water that have significant or cumulative adverse effects on human health are avoided.”</p>		oppose	<p>consequences on Southland's land, soil and water resources.</p> <ul style="list-style-type: none"> The proposed change of wording is not consistent with Objective 9B.
Objective 15	<p>Amend Objective 15 to provide as follows: “Objective 15 <i>Taonga species, as set out in Appendix M, and related habitats, are recognised and provided for <u>protected</u>.”</i></p>	<ul style="list-style-type: none"> Addition of the word "protected". 	Oppose	<ul style="list-style-type: none"> The proposed change of wording is too restrictive for such an objective in the pSWLP and is inconsistent with Objective 9B and Policy 26A.
Objective 18	<p>Amend Objective 18 to provide as follows: “Objective 18 All activities operate in accordance with “good management practice” or better to optimise efficient resource use, safeguard the life supporting capacity of the region’s land and soils, and maintain or improve the quality and quantity of the region’s water resources. <u>All activities implement the best practicable option to optimise efficient resource use and achieve the following:</u> <u>(a) Soil conservation;</u> <u>(b) Maintain and improve water quality;</u> <u>(c) Maintain or improve water quantity; and</u> <u>(d) Maintain and improve ecosystems in</u></p>	<ul style="list-style-type: none"> Addition of "best practicable option". 	Conditionally oppose	<ul style="list-style-type: none"> The proposed change of wording is inconsistent with Objective 9B and Policy 26A.

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	<u>freshwater.</u> "			
Policy 15A	<p>Amend Policy 15A as follows:</p> <p>“Policy 15A – Maintain water quality where standards are met</p> <p><i>Where existing water quality meets the Appendix E Water Quality Standards or bed sediments meet the Appendix C ANZECC sediment guidelines, maintain water quality including by:</i></p> <p><i>1. avoiding where practicable, or otherwise, remedying or mitigating, the any adverse effects of new any discharges, so that beyond the zone of reasonable mixing, those standards or sediment guidelines will continue to be met.;and</i></p> <p><i>2. requiring any application for replacement of an expiring discharge permit to demonstrate how the adverse effects of the discharge are avoided, remedied or mitigated, so that beyond the zone of reasonable mixing those standards or sediment guidelines will continue to be met.”</i></p>	<ul style="list-style-type: none"> Amendment of Policy 15A. 	Oppose	<ul style="list-style-type: none"> The proposed change of wording could have consequences for water quality that are not consistent with the National Policy Statement for Freshwater Management 2014 (amended 2017). The proposed change of wording is not consistent with Objective 9B.
Policy 15B	<p>Amend Policy 15B as follows:</p> <p>“Policy 15B – Improve water quality where standards are not met</p> <p><i>Where existing water quality does not meet the Appendix E Water Quality Standards or</i></p>	<ul style="list-style-type: none"> Use of the word "any". 	Oppose	<ul style="list-style-type: none"> The proposed change of wording could have consequences for water quality that are not consistent with the National Policy Statement for Freshwater Management 2014

Part of the proceedings	Relief sought by Appellant	Issues	Support, Oppose, or Conditionally oppose	Reasons
	<p><i>bed sediments do not meet the Appendix C ANZECC sediment guidelines, improve water quality including by:</i></p> <ol style="list-style-type: none"> <i>1. avoiding where practicable, or otherwise remedying, or mitigating, any adverse effects of <u>any new</u> discharges on water quality or sediment quality that would exacerbate the exceedance of those standards or sediment guidelines beyond the zone of reasonable mixing; and</i> <i>2. requiring any application for replacement of an expiring discharge permit to demonstrate how and by when <u>any</u> adverse effects will be avoided where practicable, or otherwise remedied or mitigated, so that beyond the zone of reasonable mixing water quality will be improved to assist with meeting those standards or sediment guidelines.”</i> 			<p>(amended 2017).</p> <ul style="list-style-type: none"> • The proposed change of wording is not consistent with Objective 9B.
<p>Policy 15C</p>	<p>Amend Policy 15C as follows:</p> <p>“Policy 15C – Maintaining and improving water quality after FMU processes</p> <p>Following the establishment of freshwater objectives and limits under Freshwater Management Unit processes, and including through implementation of non-regulatory methods, improve water quality where it is degraded to the point where freshwater objectives are not being met and otherwise maintain water quality where freshwater</p>	<ul style="list-style-type: none"> • Deletion of Policy 15C. 	<p>Oppose</p>	<ul style="list-style-type: none"> • The proposed deletion could have consequences for water quality that are not consistent with the National Policy Statement for Freshwater Management 2014 (amended 2017). • The proposed deletion is not consistent with Objective 9B.

Part of the proceedings	Relief sought by Appellant	Issues	Support, Oppose, or Conditionally oppose	Reasons
	objectives are being met.			
Policy 16A	Amend Policy 16A to provide as follows: “Policy 16A – Industrial and trade processes that may affect water quality <i>Minimise Avoid where practicable, or otherwise remedy or mitigate, the any adverse environmental effects (including on the quality of water in lakes, rivers, artificial watercourses, modified watercourses, wetlands, tidal estuaries, salt marshes and groundwater) by requiring the adoption of the best practicable option to manage the treatment and discharge of contaminants derived from industrial and trade processes.”</i>	<ul style="list-style-type: none"> • Use of the word "avoid" 	Oppose	<ul style="list-style-type: none"> • The proposed change of wording uses the word "avoid" which is too restrictive for such a policy in the pSWLP. • This does not implement the objectives of the pSWLP.
Policy 17A	Amend Policy 17A to provide as follows: “Policy 17A – Community sewerage schemes and on-site wastewater systems <i>1. Minimise Avoid where practicable, or otherwise remedy or mitigate, any adverse effects on water quality, and avoid, remedy, or mitigate other adverse effects of the operation of, and discharges from, community sewerage schemes by:</i> <i>(a) designing, operating and maintaining community sewerage schemes in accordance with recognised industry standards; and</i>	<ul style="list-style-type: none"> • Level of protection of water quality. • Use of the word "avoid". 	Oppose	<ul style="list-style-type: none"> • The proposed change of wording uses the word "avoid" which is too restrictive for such a policy in the pSWLP. • This does not implement the objectives of the pSWLP, particularly Objective 9B.

Part of the proceedings	Relief sought by Appellant	Issues	Support, Oppose, or Conditionally oppose	Reasons
	<p>(b) implementing measures to progressively reduce the frequency and volume of wet weather overflows from community sewerage schemes; and</p> <p>(c) ensuring community sewerage schemes are operated and maintained to minimise <u>avoid</u> dry weather overflows occurring...</p>			
<p>Policy 20</p>	<p>Amend Policy 20 to provide as follows:</p> <p>“Policy 20 – Management of water resources</p> <p><i>Manage the taking, abstraction, use, damming or diversion of surface water and groundwater so as to:</i></p> <p><i>1A. recognise that the use and development of Southland’s land and water resources, including for primary production, can have positive effects including enabling people and communities to provide for their social, economic and cultural wellbeing;</i></p> <p><i>1. avoid, <u>where practicable, or otherwise</u> remedy or mitigate, adverse effects from the use and development of surface water resources on:...</i></p> <p><i>2. avoid, remedy or mitigate where <u>practicable, or otherwise remedy,</u> significant adverse effects from the use and development of groundwater resources on:</i></p>	<ul style="list-style-type: none"> • Use of the word "avoid". 	<p>Oppose</p>	<ul style="list-style-type: none"> • The proposed change of wording uses the word "avoid" which is too restrictive for such a policy in the pSWLP. • This does not implement the objectives and policies of the pSWLP, particularly Objective 9B and Policy 26A.

Part of the proceedings	Relief sought by Appellant	Issues	Support, Oppose, or Conditionally oppose	Reasons
	<p>(a) long-term aquifer storage volumes;</p> <p>(b) the reliability of supply for lawful existing groundwater users, including those with existing, but not yet implemented, resource consents;</p> <p>(c) surface water flows and levels, particularly in spring-fed streams, natural wetlands, lakes, aquatic ecosystems and habitats (including life supporting capacity and ecosystem health and processes of waterbodies) and their natural character; and</p> <p>(d) water quality, including temperature and oxygen content; ...</p>			
<p>Policy 26A</p>	<p>Amend Policy 26A to provide as follows:</p> <p>“Policy 26A – Infrastructure</p> <p>Recognise and provide for enable the effective development, operation, maintenance and upgrading of regionally significant, nationally significant and critical infrastructure in a way that avoids where practicable, or otherwise remedies or mitigates, adverse effects on the environment.”</p>	<ul style="list-style-type: none"> • Amendment of Policy 26A. 	<p>Conditionally oppose</p>	<ul style="list-style-type: none"> • The proposed change does not properly implement the objectives of the pSWLP, particularly Objective 9B.
<p>Policy 42</p>	<p>Amend Policy 42 to provide as follows:</p> <p>“Policy 42 – Consideration of water permit applications</p>	<ul style="list-style-type: none"> • Amendment of Policy 42. 	<p>Oppose</p>	<ul style="list-style-type: none"> • The proposed change of wording could affect territorial authority water supply infrastructure. • This does not implement the

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	<p><i>When considering resource consent applications for water permits to take and use water:</i></p> <p>...</p> <p><i>2. except for non-consumptive uses, consents replacing an expiring resource consent for an abstraction from an over-allocated water body will generally shall only be granted at a reduced rate, the reduction being proportional to the amount of over-allocation and previous use, using the method set out in Appendix O; and ...</i></p>			<p>objectives of the pSWLP, particularly Objective 9B.</p>
<p>Rule 5</p>	<p>Amend Rule 5 to provide as follows:</p> <p><i>“Rule 5 – Discharges to surface waterbodies</i></p> <p>...</p> <p><i>(3) except for discharges from a territorial authority reticulated stormwater or wastewater system, the discharge does not contain any raw sewage; and</i></p> <p><i>(4) <u>the discharge is not into any Regionally Significant Wetland or Sensitive Waterbodies listed in Appendix A.</u>”</i></p>	<ul style="list-style-type: none"> • Deletion of exception. 	<p>Oppose</p>	<ul style="list-style-type: none"> • The proposed change of wording could have consequences for reticulated stormwater and wastewater systems. • The proposed change affects the inter-relationship of Rule 5 with other specific discharge rules such as Rules 15, 19, 26 and 33A. This change does not appropriately implement the relevant objectives and policies.
<p>Rule 15</p>	<p>Amend Rule 15 to provide as follows:</p> <p><i>“Rule 15 – Discharge of stormwater</i></p> <p><i>(a) <u>The discharge of stormwater onto or into</u></i></p>	<ul style="list-style-type: none"> • Additional condition for the discharge of stormwater. • Appendix E "Water Quality 	<p>Oppose</p>	<ul style="list-style-type: none"> • The additional condition is too restrictive. • The proposed receiving water

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	<p><i>land in circumstances where contaminants may enter water, or into a lake, river, artificial watercourse, modified watercourse or wetland, is a permitted activity provided the following conditions are met:</i></p> <p>...</p> <p><i>(vi) for discharges to land, the discharge does not cause flooding, erosion, or land instability to any other person's property; and</i></p> <p><i>(vii) where the water quality upstream of the discharge meets the standards set for the relevant waterbody in Appendix E "Water Quality Standards", the discharge does not reduce the water quality below those standards at the downstream edge of the reasonable mixing zone; or</i></p> <p><i>(viii) where the water quality downstream of the discharge does not meet the standards set for the relevant water body in Appendix E "Water Quality Standards", the discharge must not further reduce the water quality below those standards at the downstream edge of the reasonable mixing zone.</i></p> <p><i>(ab) The discharge of stormwater onto or into land where contaminants may enter water, or into a lake, river, artificial watercourse, modified watercourse or wetland, that does not meet Rule 15(a)(i) is a discretionary activity provided the following conditions are</i></p>	Standards"		<p>quality standards could have consequences for Southland's important and essential infrastructure.</p> <ul style="list-style-type: none"> The water quality standards related to this rule need to be established for each catchment as part of the limit setting process properly carried out by Environment Southland.

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	<p><i>met:</i></p> <p>...</p> <p><i>(iii) demonstration of funding for implementing the management plan is provided with the application; and</i></p> <p><i>(iv) the discharge does not contain any sewage, contaminants from on-site wastewater systems and mobile toilets, or agricultural effluent; and</i></p> <p><i>(v) where the water quality upstream of the discharge meets the standards set for the relevant waterbody in Appendix E “Water Quality Standards”, the discharge does not reduce the water quality below those standards at the downstream edge of the reasonable mixing zone; or</i></p> <p><i>(vi) where the water quality downstream of the discharge does not meet the standards set for the relevant water body in Appendix E “Water Quality Standards”, the discharge must not further reduce the water quality below those standards at the downstream edge of the reasonable mixing zone.</i></p> <p><i>(b) The discharge of stormwater onto or into land in circumstances where contaminants may enter water, or into a lake, river, artificial watercourse, modified watercourse or wetland, that does not meet one or more of the conditions in Rule 15(a), excluding</i></p>			

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	<p><i>condition (a)(iii), a(v) or a(vi), and which is not otherwise specified in Rule 15(ab) is a discretionary activity.</i></p> <p><i>(c) The discharge of stormwater onto or into land in circumstances where contaminants may enter water, or into a lake, river, artificial watercourse, modified watercourse or wetland, that does not meet Rule 15(a)(iii), a(v) or a(vi) and is not otherwise specified in Rule 15(ab) is a non-complying activity.”</i></p>			
Appendix E	See page 48 of Southland Fish and Game Council's Notice of Appeal for proposed relief sought in Appendix E receiving water quality standards table.	<ul style="list-style-type: none"> Amended receiving water quality standards. 	Oppose	<ul style="list-style-type: none"> The proposed receiving water quality standards could have consequences for Southland's important and essential infrastructure. The water quality standards related to this rule need to be established for each catchment as part of the limit setting process properly carried out by Environment Southland.