Request for review of Resource Consent: AUTH-20252550-03

Received from: Southland Sustainable Resource Coalition

Date: Wednesday 16 September, 10:26 pm

Sent to: Chief Executive, General Manager Strategy & Regulation, and all Environment Southland Councillors, Resource Consents staff

To Environment Southland Management, Resource Consents and Councillors,

1. Purpose

I write to formally request that Environment Southland initiate a review of Water Permit AUTH-20252550-03 under Sections 128 and 129 of the Resource Management Act 1991. The review window specified under Condition 9 of the consent closes on 30 September 2026.

2. Background

This consent authorises groundwater abstraction of up to 220,752,000 litres per year (7 L/s) for cooling and potable supply at the Datagrid data centre, 370 Flora Road East, Makarewa.

On 18 August 2026, the consent holder publicly stated at the Southland Business Chamber (reported by RNZ and The Southland Tribune) that total annual water draw will be under 66 ML, drawn primarily from rainwater harvesting and reservoir storage and not groundwater. This indicates a consented allocation approximately 3.3 times the publicly stated operational need.

3. Grounds for Review

3.1 Efficient and reasonable use - Policy 20(3) proposed Southland Water and Land Plan (pSWLP)

Policy 20 of the proposed Southland Water and Land Plan (May 2024) requires the Council to "manage the taking, abstraction, use, damming or diversion of surface water and groundwater" in a manner that:

"ensures water is used efficiently and reasonably by requiring that the rate and volume of abstraction specified on water permits to take and use water are no more than reasonable for the intended end use following the criteria established in Appendix O and Appendix L.4."

Retaining a consented rate and volume approximately 3.3 times the consent holder's own publicly stated operational need appears inconsistent with this direction. A review would enable reassessment of the consented volume against the criteria in Appendices O and L.4 in light of the consent holder's stated reliance on rainwater harvesting and reservoir storage.

3.2 Best Management Practices for Other Uses - Appendix O (pSWLP)

Appendix O ("Reasonable and Efficient Use of Water") specifies that for uses outside the irrigation and community water supply categories (such as datacentre operations), the rate and volume of abstraction must be calculated:

"in accordance with best management practices for efficient use of water in relation to that use"

The consent holder's statement that groundwater abstraction will not be the primary water source raises questions as to whether the consented volume aligns with best management practices for efficient use. A review would enable assessment against this standard.

This shifts the consent from a traditional volumetric approach, where operators can use any amount up to the cap, to a performance-based approach where water use is tied to actual cooling needs through modern technology standards, rather than arbitrary caps.

3.3 Technical Report Evidence - Bonisch Hydrological Assessment

The Bonisch technical report prepared in support of the original consent application confirms the consent holder's own operational modelling anticipated:

1. Rainwater capture as the **initial (primary)** water source for cooling purposes
2. Groundwater from the bore field as the **second-tier** source, up to the maximum groundwater take of 7 L/s total from all bores
3. Supplementary supply from Invercargill City Council on-demand as the final tier

This multi-tier supply hierarchy predates the consent holder's 18 August 2026 public statement and demonstrates that the consented groundwater allocation was never intended as the exclusive or primary source. Retaining a groundwater allocation capable of supplying up to 220 ML/year when the consent holder's own technical modelling identified rainwater as the primary source and groundwater as secondary is inconsistent with the efficient and reasonable use direction in Policy 20(3) and Appendix O.

3.4 Allocation — Policy 21 (pSWLP)

Policy 21 requires the Council to manage the allocation of surface water and groundwater, including determining "that a water body is fully allocated when the total volume of water allocated through current resource consents and permitted activities is equal to either: (a) the maximum amount that may be allocated under the rules of this Plan, or (b) the provisions of any water conservation order." Unused allocation held under this consent nonetheless occupies headroom within the applicable allocation regime. Reducing the consented volume to a level commensurate with demonstrated need would restore allocation flexibility within the relevant groundwater management zone.

3.5 Preventing "Consent Banking"

The traditional volumetric approach creates a risk of "consent banking". This is where operators hold excess groundwater allowances as insurance for inefficient design without intending to use them. A review should address this by establishing performance-based conditions that:

- Require demonstration of specific water-efficient technologies and designs
- Monitor technology performance metrics rather than only volumetric take limits
- Enable adaptive management if operational realities diverge from stated commitments

As noted in coverage of this consent case, there is concern that "once you're consented we move on and focus on what's inside our box." This review presents an opportunity to prevent that outcome by ensuring the consent reflects actual operational practice, not just maximum theoretical take.

4. Relief Sought

We request that the Council initiate a formal review under Section 128 to reassess the consented volume against the consent holder's actual operational requirements, modern international best practice for data centre design, and the criteria in Appendices O and L.4 under Policy 20(3).

Specifically, we seek assurance that:

(a) Groundwater allocation reflects actual operational need rather than holding excess capacity that could be used by others or left unused; and

(b) The consent incorporates international best practice standards for data centre water efficiency, ensuring water use is minimised through modern cooling technology and design rather than relying on oversized groundwater reserves; and

(c) Monitoring frameworks track both volumetric take AND performance outcomes, enabling detection of deviations from stated efficiency commitments over time.

These outcomes are necessary to satisfy Policy 20(3)'s direction that consented volumes "are no more than reasonable for the intended end use." Additionally, reducing oversized allocations would support Policy 21's objectives to maintain allocation flexibility for future regional needs, particularly given that Makarewa comprises LUC Class 2 soils which are prime agricultural land suitable for food production. Holding groundwater capacity under this consent reduces flexibility for essential primary production uses in this high-value soil zone.

Any outcome should align with Appendix O's emphasis on ensuring consented volumes "do not result in wastage or inefficient use of water."

5. Urgency and Requests for Confirmation

Given that the review window under Condition 9 closes on 30 September 2026, we respectfully request written confirmation, by 25 September 2026, of:

1. Whether Environment Southland intends to initiate a review under Condition 9;
2. The timeline for any review process; and
3. The opportunity for public input into the review.

6. Contact Details

Southland Sustainable Resources Coalition

Response to request for review of Resource Consent: AUTH-20252550-03

Sent to: Southland Sustainable Resource Coalition

Date: Tuesday 22 September, 2:57 pm

Sent from: General Manager Strategy & Regulation

Our reference: AUTH-20252550-03

Tēnā koutou

Request for review of water permit AUTH-20252550-03

Thank you for your request that Environment Southland initiate a review of Resource Consent AUTH-20252550-03, which authorises the abstraction and use of groundwater at 342, 350, 360 & 370 Flora Road East, Makarewa for the operation of a datacentre.

Section 128 of the Resource Management Act 1991 governs Environment Southland's power to initiate a review of the conditions of a resource consent. Section 128(1) empowers Environment Southland to review the conditions of a resource consent for the purposes specified in the relevant consent and for other limited purposes as stated in section 128(1).

Condition 9 of AUTH-20252550-03 provides the following purposes:

> (a) adjusting the consented rate or volume of water under Condition 2, should monitoring demonstrate that the consented rate or volume is not able to be fully utilised;
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> (b) determining whether the conditions of this consent are adequate to deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage;
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> (c) ensuring the conditions of this consent are consistent with any National Environmental Standards Regulations, National Policy Statement, Water Conservation Order, relevant plans and/or any relevant Regional Policy Statement; or
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> (d) adjusting or altering the method of water take data recording and transmission.

I have considered your request, and the matters raised within it, and have determined that Environment Southland will not initiate a review of the conditions of AUTH-20252550-03. I consider that there is no basis for the requested review and that it would be unlawful to carry out such a review at this time.

I do not consider that there is any basis for a review under section 128(1)(a) of the Resource Management Act at present:

(a) In relation to point 3.1 of your request, the circumstances provided in Condition 9(a) of the resource consent do not provide for review at this time. I note in particular that the consented rate or volume may be reviewed, but only where monitoring data demonstrates that the consented rate or volume cannot be fully utilised. It is too early in the development for that circumstance to arise – no monitoring data is available to support the conclusion that the consented rate or volume cannot be fully utilised. A review may occur in the future, in the event that monitoring data supports the consent holder's statements about reconfiguration of the site and its cooling systems.

(b) In relation to points 3.2 to 3.4 of your request, the application was considered against the Proposed Southland Water and Land Plan (including Policy 20, Policy 21, Appendix L.4 and Appendix O) by a qualified, independent commissioner. There is no basis for reviewing the conditions of the consent based on the consent holder's statements that groundwater abstraction will not be the primary water source.

(c) In relation to point 3.5 of your request, Environment Southland does not have a power to review the conditions of the consent in response to "risk of consent banking".

I do not consider that there is any basis for a review in relation to the other purposes in section 128(1):

(a) In relation to section 128(1)(aa), there is no indication that the consent holder has contravened a condition of the consent.

(b) In relation to section 128(1)(b), rule 54(d) of the Proposed Southland Water and Land Plan does, via Appendix L.5, set rates of water use from the groundwater zone. However, allocation from the groundwater zone, including Datagrid NZ Partnership Limited's consented operational and dewatering takes, is less than 10% of the allocation limit. Therefore, a review cannot be justified in terms of enabling the rates set by the rule to be met under section 128(1)(b)(iii).

(c) Sections 128(1)(ba) to (bc) are not applicable to AUTH-20252550-03.

(d) In relation to section 128(1)(c) the information provided by the applicant was correct at the time of the resource consent decision. In any event, there is no evidence to suggest that there will be adverse effects from the activity such that it is necessary to apply more appropriate conditions.

(e) Section 128(1)(d) is not applicable to AUTH-20252550-03.

Please note that if a review does occur in future, it will not automatically provide scope for input from the Southland Sustainable Resources Coalition or the public more widely. The process for determining who may participate in a review of conditions is provided for in section 130 of the Resource Management Act.

Nga Mihi

Hayley Fitchett

General Manager Strategy & Regulation