

In the Environment Court of New Zealand
Christchurch Registry

I Mua I Te Kōti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-26 to 50

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

In the matter of appeals under clause 14 of Schedule 1 of the RMA relating to the proposed Southland Water and Land Plan (**pSWLP**)

Between **Gore District Council, Southland District Council and Invercargill City Council (Territorial Authorities)**
Appellants and section 274 Parties

And **Southland Regional Council (Environment Southland)**
Respondent

Memorandum of Counsel for Territorial Authorities

11 July 2022

Territorial Authorities' solicitors:


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May it please the Court

- 1 This memorandum responds to the Court's case management directions issued on 6 July 2022.
- 2 The Territorial Authorities are section 274 parties with an interest in policy 15A and 15B. The final relief sought by the Territorial Authorities is still to support the mediated version of these policies, but they also consent to the versions of them that are set out in Mr Janan Dunning's evidence dated 10 June 2022. These versions of relief are reflected in the consolidated version of the plan issued on 25 May 2022.
- 3 These versions are attached as **Attachment A** to this memorandum

Dated this 11th day of July 2022



Michael Garbett
Counsel for the Appellant

Attachment A:

Mediated version of Policy 15A – Maintain water quality where standards are met

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:

1. ~~avoiding, where reasonably practicable, or otherwise remedying or mitigating any the adverse effects of new discharges, so that beyond the zone of reasonable mixing, those standards or sediment guidelines will continue to be met (beyond the zone of reasonable mixing for point source discharges); and~~
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.~~

Mediated version of Policy 15B – Improve water quality where standards are not met

Where existing water quality does not meet the Appendix E Water Quality Standards or bed sediments do not meet the Appendix C ANZECC sediment guidelines, improve water quality including by:

1. ~~avoiding where practicable and otherwise remedying or mitigating any adverse effects of new point source discharges to surface water on water quality or sediment quality that would exacerbate the exceedance of those standards or sediment guidelines beyond the zone of reasonable mixing; and~~
 - 1a. avoiding where reasonably practicable and otherwise remedying or mitigating any adverse effects of other new discharges on water quality or sediment quality that would exacerbate the exceedance of those standards or sediment guidelines; and
2. ~~requiring any application for replacement of an expiring discharge permit to demonstrate how and by when adverse effects will be avoided where reasonably practicable and 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 (beyond the zone of reasonable mixing for point source discharges).~~

Supported Amendments to Policies 15A and 15B

Policy 15A – Maintain water quality where standards are met

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:

1. avoiding, where reasonably practicable or otherwise minimising any ~~where reasonably practicable, or otherwise remedying or mitigating any~~ the adverse effects of new discharges, so that ~~beyond the zone of reasonable mixing,~~ those standards or sediment guidelines will continue

to be met (beyond the zone of reasonable mixing for point source discharges).

Policy 15B – Improve water quality where standards are not met

Where existing water quality does not meet the Appendix E Water Quality Standards or bed sediments do not meet the Appendix C ANZECC sediment guidelines, ~~improve~~ water quality will be including by:

1. maintained by avoiding ~~where practicable and otherwise remedying or mitigating~~ any adverse effects of new point source discharges to surface water on water quality or sediment quality that would exacerbate the exceedance of those standards or sediment guidelines beyond the zone of reasonable mixing; and

1a. maintained by avoiding where reasonably practicable and otherwise ~~minimising remedying or mitigating~~ any adverse effects ~~of other new discharges on water quality or sediment quality from new discharges to land, new discharges to groundwater or new diffuse discharges to water so that would exacerbate~~ the exceedance of those standards or sediment guidelines is, as a minimum, not exacerbated; and

2. improved by requiring any application for the replacement of an expiring discharge permit, or the varying or seeking a different discharge permit for an existing activity, to demonstrate how and by when adverse effects will be avoided where reasonably practicable and 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 (beyond the zone of reasonable mixing for point source discharges).

Joint Witness Statement Topic B5 - Definition of 'Minimise':

"To reduce to the smallest amount reasonably practicable".