

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-50

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	Royal Forest and Bird Protection Society of New Zealand Incorporated 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:
Michael Garbett | Rachel Brooking
Anderson Lloyd
Level 10, Otago House, 477 Moray Place, Dunedin
Private Bag 1959, Dunedin 9054
DX YX 10107, Dunedin
p + 64 3 467 7173 | f + 64 3 477 3184
michael.garbett@al.nz | rachel.brooking@al.nz

**anderson
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:

Royal Forest and Bird Protection Society of New Zealand Incorporated v Southland Regional Council (ENV-2018-CHC-50) 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

Anderson Lloyd
Level 10, Otago House, 477 Moray Place, Dunedin 9016
Private Bag 1959, Dunedin 9054
DX YX10107, Dunedin
p + 64 3 467 7173 | f + 64 3 477 3184
michael.garbett@al.nz | rachel.brooking@al.nz

Contact persons: Michael Garbett | Rachel Brooking

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 – **Royal Forest and Bird Protection Society of New Zealand Incorporated** ENV-2018-CHC-50

Part of the proceedings	Relief sought by Appellant	Issues	Support, Oppose, or Conditionally oppose	Reasons
<p>Objective 6</p>	<p>Delete reference to "overall" water quality</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 9 Objective 9A Objective 9B</p>	<p>Reinstate reference to recreational values and waterbody margins in Objective 9.</p> <p>Recast Objectives 9, 9A and 9B to ensure that environmental bottom lines in 9 are achieved before the use of land and water contemplated in 9A and 9B are provided for.</p> <p>Amend Objective 9A to:</p> <p><u>Provided objective 9 is achieved, water is available to support the reasonable needs of people and communities to provide for their, social, economic and cultural wellbeing</u></p> <p>Amend Objective 9B to:</p> <p>The effective development, operation, maintenance and upgrading of Southland's regionally significant, nationally <u>significant</u> and critical infrastructure is enabled</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 9B does not properly give effect to higher order documents or the purpose of the RMA.

Part of the proceedings	Relief sought by Appellant	Issues	Support, Oppose, or Conditionally oppose	Reasons
	<u>sustainably managed.</u>			
Objective 13 Objective 13A Objective 13B	<p>Reinstate/amend objective providing that “adverse effects on ecosystems (including <u>indigenous biological diversity and integrity of habitats</u>), amenity values, cultural values and historic heritage values are avoided, remedied or mitigated to ensure these values are maintained <u>safe guarded or enhanced.</u>” and enable the use and development of lands and soils only where those objectives are met:</p> <p>(a) The quantity, quality and structure of soil resources are <u>managed to avoid irreversible degradation</u> not irreversibly degraded through land use activities and discharges to land;</p> <p>((b) the discharge of contaminants to land or water that have significant adverse or cumulative effects on human <u>health and recreation</u> are avoided; and</p> <p>(c) adverse effects on ecosystems (including <u>indigenous biological diversity and integrity of habitats</u>), amenity values, cultural values and historic heritage values are avoided, remedied or mitigated to ensure these values are maintained <u>safe guarded</u> or enhanced.</p> <p><u>(d) Provided a, b and c are met, enable the use of development of land and soils.</u></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 and is not consistent with Objective 9B.

Part of the proceedings	Relief sought by Appellant	Issues	Support, Oppose, or Conditionally oppose	Reasons
	Delete objectives 13A and 13B			
Objective 17	Amend to: ... natural habitats, are <u>preserved, and</u> protected from inappropriate use and development.	<ul style="list-style-type: none"> Use of the word "preserved". 	Oppose	<ul style="list-style-type: none"> The proposed change of wording uses the word "preserved" which is too restrictive for such an objective in the pSWLP. This does not implement the objectives and policies of the pSWLP, particularly Objective 9B and Policy 26A.
Policy 15A	Amend Policy 15A to ensure that it is consistent with maintenance of water quality. Delete references to "remedy or mitigate."	<ul style="list-style-type: none"> Level of protection of water quality. 	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 is not consistent with the objectives of the pSWLP, particularly Objective 9B.
Policy 15B	Amend Policy 15B(1) to require new discharges to contribute to an enhancement of water quality. Amend Policy 15B(2) to provide guidance to consent authorities to distinguish between minor and major improvements and timeframes. Delete references to "remedy or mitigate."	<ul style="list-style-type: none"> Level of protection of water quality. 	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 is not consistent with the objectives of the pSWLP, particularly Objective 9B.

Part of the proceedings	Relief sought by Appellant	Issues	Support, Oppose, or Conditionally oppose	Reasons
Policy 15C	Amend: 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 <u>it has been allocated beyond a limit or</u> freshwater objectives are not being met and otherwise maintain <u>or improve</u> water quality where freshwater objectives are being met.”	<ul style="list-style-type: none"> Level of protection of water quality. 	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 is not consistent with the objectives of the pSWLP, particularly Objective 9B.
Policy 16A	Amend to require avoidance of adverse effects on water quality.	<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, particularly Objective 9B.
Policy 17A	Amend to require that adverse effects on water quality are avoided.	<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.
Policy 20	Delete reference to primary production in 1A.	<ul style="list-style-type: none"> Deletion of "remedy or 	Oppose	<ul style="list-style-type: none"> The proposed deletions would only allow for "avoid" which is too

Part of the proceedings	Relief sought by Appellant	Issues	Support, Oppose, or Conditionally oppose	Reasons
	<p>Amend 20(1) by deleting “remedy or mitigate” in relation to items (a), (b), (c), (d), (e), (f), (h) and (j).</p> <p>Amend 20(2) by deleting “remedy or mitigate significant” in relation to effects on aquifer storage volumes; surface water flows and levels; and water quality.</p>	mitigate”.		<p>restrictive for such a policy in the pSWLP.</p> <ul style="list-style-type: none"> This does not implement the objectives and policies of the pSWLP, particularly Objective 9B and Policy 26A.
Policy 26A	Delete Policy 26A	<ul style="list-style-type: none"> Deletion of Policy 26A. 	Oppose	<ul style="list-style-type: none"> Removes the balance from the objective framework needed to implement the objectives, particularly Objective 9B, and to achieve the purpose of the RMA when it comes to necessary territorial authority infrastructure.
Policy 28	Delete "remedy or mitigate".	<ul style="list-style-type: none"> Deletion of "remedy or mitigate". 	Oppose	<ul style="list-style-type: none"> The proposed deletions would only allow for "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.
Rule 15	<p>Amend 15(a) and 15(ab) to add:</p> <p><u>vii) The discharge does not reduce the water quality standard below any standards set for the relevant waterbody in Appendix E “Water Quality Standards” at the downstream edge</u></p>	<ul style="list-style-type: none"> Additional condition for the discharge of stormwater. Appendix E "Water Quality Standards". 	Oppose	<ul style="list-style-type: none"> The additional condition is too restrictive. The proposed water quality standards could have consequences for Southland's important and

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	<u>of the reasonable mixing zone.”</u>			<p>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.