

DUPLICATE

IN THE HIGH COURT OF NEW ZEALAND
DUNEDIN REGISTRY

I TE KŌTI MATUA O AOTEAROA
ŌTEPOTI ROHE

CIV-2021-412-000089

IN THE MATTER of application under the Declaratory Judgments Act
1908

BETWEEN **OTAGO REGIONAL COUNCIL**, a regional council
under Schedule 2 of the Local Government Act
2002

Plaintiff

AND **ROYAL FOREST AND BIRD PROTECTION
SOCIETY OF NEW ZEALAND INCORPORATED**,
an incorporated society having its registered office
at 205 Victoria St, Wellington

Defendant

**INTERLOCUTORY ORDER AS TO SERVICE, TIMETABLING AND OTHER
DIRECTIONS**

Dated: 21st September 2021

ROSS DOWLING MARQUET GRIFFIN
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Solicitor Acting: A J Logan

TMS-266090-1095-185-V1

HIGH COURT

27 SEP 2021

DUNEDIN

INTERLOCUTORY ORDER AS TO SERVICE, TIMETABLING AND OTHER DIRECTIONS

To Royal Forest and Bird Protection Society of New Zealand Incorporated and any other person directed to be served

1. The interlocutory application made by Alastair John Logan, counsel on behalf of the Otago Regional Council on 3 September 2021 was determined by Associate Judge Paulsen on 21 September 2021.
2. The determination was made without a hearing.
3. The following orders were made:
 - a) Service of this proceeding is to be effected on the defendant and all primary submitters on the proposed Otago Regional Policy Statement 2021 (PORPS) by:
 - i) sending to each person who gave an email address for service in a submission on the PORPS an email containing a link to a Microsoft OneDrive folder containing the statement of claim, notice of proceedings, affidavit of Anita Jayne Dawe and Court directions; or
 - ii) sending by courier to each person who did not provide an email address for service but did provide a postal or physical address for service in a submission on the PORPS to the postal or physical address provided by the submitter copies of the statement of claim, notice of proceeding and Court directions (but not affidavit of Anita Jayne Dawe) together with written advice that the affidavit of Anita Jayne Dawe is available on the plaintiff's website at which Ms Dawe's affidavit may be viewed and that a hard copy can be obtained from the plaintiff on request; the written advice must give the link to the website and an email address by which a hard copy of the affidavit of Ms Dawe can be requested.



- b) Public notice of the proceedings, and substituted service on all further submitters and primary submitters who have not provided an address for service in their submission, shall be effected as follows:
- i) the plaintiff publishing immediately the public notice approved by the Court (**as attached**), statement of claim, Ms Dawe's affidavit and the Court's directions, on the PORPS page of its website;
 - ii) the plaintiff publishing the public notice approved by the Court in the Otago Daily Times on two occasions, at least one week apart.
- c) The notice of proceeding is to be in a form reflecting these directions and approved by the Registrar.
- d) The Registrar is to set this proceeding down for hearing in the High Court at Dunedin on **8 and 9 February 2022**.
- e) The time for filing a statement of defence or notice of appearance and any affidavit in support is abridged for persons served in accordance with [4](a) and (b) above to 20 working days after service and otherwise to 10 working days after the second publication of the public notice in the Otago Daily Times.
- f) The hearing shall, subject to any further direction of the Court, be conducted on a submission only basis.
- g) Submissions, list of authorities and a chronology on behalf of the plaintiff and any person supporting the plaintiff shall be filed and served no later than 15 clear working days before the hearing.
- h) Submissions, list of authorities and chronology on behalf of the defendant and any person supporting the defendant shall be filed and served no later than 10 clear working days before the hearing.
- i) The plaintiff shall prepare, file and serve a common bundle and casebook at least two clear working days before the



hearing.

- j) The Registrar is to set this case down for a pre-trial conference preferably before the trial Judge at least five working days prior to the hearing. The purpose of the pre-trial conference is to monitor compliance with the Court's directions and the readiness of the case.
- k) for hearing and make any special arrangements for the conduct of the hearing.
- l) Counsel shall file a preferably joint memorandum at least three working days prior to the pre-trial conference addressing the matters in j) above.
- m) Leave is reserved for any party to apply on notice for other or further directions.



Date: 28th September 2021


Deputy Registrar

Public Notice

Proposed Otago Regional Policy Statement

1. On 26 June 2021, the Otago Regional Council (ORC) publicly notified the proposed Otago Regional Policy Statement 2021 (PORPS).
2. In that public notice, ORC stated that it was satisfied that the whole of the PORPS 2021 is a freshwater planning instrument and therefore would be subject to the freshwater planning process set out in s 80A of the Resource Management Act 1991 (RMA).
3. Questions have been raised whether the PORPS is a freshwater planning instrument in terms of s 80A of the RMA.
4. ORC has brought proceedings in the High Court at Dunedin under the Declaratory Judgments Act 1908 to determine that issue.
5. The Court file number is CIV-2021-412-89.
6. The High Court has directed the public notice of the proceedings be given.
7. You can view the statement of claim, notice of proceeding, the Court's directions and affidavit of Anita Jayne Dawe in support on the ORC website www.orc.govt.nz/rps.
8. Hard copies of the statement of claim, notice of proceeding, supporting affidavit and Court directions can be obtained on request by emailing rps@orc.govt.nz.
9. The Court has directed that this notice is to be published on two occasions in the Otago Daily Times.
10. The second publication of this notice is on 4 October 2021.
11. If you have not been personally served with the statement of claim and you wish to participate in this proceeding you must file in Court and serve on the ORC at the address given at the foot of this notice a statement of defence or notice of appearance and any affidavit on which you wish to rely, on or before 18 October 2021 (that is ten working days after the second publication of this notice) or obtain the leave of the Court to do so later. You must also serve those documents on any other person who has filed in



the Court an address for service.

12. If a hearing of the proceeding is necessary, it will be held in this Court at Dunedin on **8 and 9 February 2022**.

13. Documents for service on ORC in relation to this matter may be –

- a) posted to its solicitor at Savoy Building, 50 Princess Street, Dunedin;
- b) posted to its solicitor at PO Box 1144; or
- c) left for the solicitor at a document exchange for direction to DX YP80015;
- d) transmitted to the solicitor by facsimile to (03) 477 6998; or
- e) emailed to the solicitor at alastair.logan@rossdowling.co.nz.

