

**IN THE HIGH COURT OF NEW ZEALAND**

**DUNEDIN REGISTRY**

**CIV-2021-412-89**

**IN THE MATTER** of application under the Declaratory Judgements  
Act 1908

**BETWEEN** **OTAGO REGIONAL COUNCIL**  
Plaintiff

**AND** **ROYAL FOREST AND BIRD PROTECTION SOCIETY  
OF NEW ZEALAND INCORPORATED**  
Defendant

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**STATEMENT OF DEFENCE**

**August 2021**

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**Next event date**

**Judicial Officer**

## **STATEMENT OF DEFENCE**

### **PARTIES**

1. The Defendant admits paragraph 1.
2. The Defendant admits paragraph 2.

### **FACTS UPON WHICH THE APPLICATION IS BASED**

3. The Defendant admits paragraph 3.
4. The Defendant admits paragraph 4.
5. The Defendant admits paragraph 5.
6. The Defendant admits paragraph 6.
7. The Defendant admits paragraph 7.
8. The Defendant admits paragraph 8.

### **The Proposed Otago Regional Policy Statement**

9. The Defendant admits paragraph 9.
10. The Defendant admits paragraph 10.
11. The Defendant admits paragraph 11.
12. The Defendant admits paragraph 12.

### **Decision to subject whole of PORPS to freshwater planning process**

13. The Defendant admits paragraph 13 but disagrees with the RPS notification report<sup>1</sup> that the PORPS was a freshwater planning instrument in its entirety.

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<sup>1</sup> This is the report referred to in paragraph 13 of the Statement of Claim, that the Plaintiff considered at its meeting of 16 July 2021, when it made decisions regarding the PORPS.

14. The Defendant admits paragraph 14 but repeats that it disagrees that the PORPS is a freshwater planning instrument in its entirety.
15. The Defendant admits paragraph 15 but considers that the RPS notification report was in error because it failed to identify which parts of the PORPS were related to freshwater, as required by s 80A(3).
16. The Defendant admits paragraph 16 but considers that the recommendation was in error as the PORPS is not a freshwater planning instrument in its entirety. In the alternative, the Defendant considers that there are parts of the PORPS that are not related to freshwater and should not be subject to the freshwater planning process.
17. The Defendant admits paragraph 17 but repeats that it considers the PORPS is not a freshwater planning instrument in its entirety. In the alternative, the Defendant considers that there are parts of the PORPS that are not related to freshwater and should not be subject to the freshwater planning process.
18. The Defendant admits paragraph 18.
19. The Defendant admits paragraph 19.
20. The Defendant admits paragraph 20.
21. The Defendant admits paragraph 21.
22. The Defendant admits paragraph 22.
23. The Defendant admits paragraph 23.

#### **DECLARATION SOUGHT**

24. The Defendant seeks the following declaration.

The Proposed Otago Regional Policy Statement 2021 is not a freshwater planning instrument under section 80A(1)-(3) of the Resource Management Act 1991.

Or, in the alternative, if the Court finds that it is a freshwater planning instrument:

The only part of the Proposed Otago Regional Policy Statement 2021 that is related to freshwater under section 80A(1)-(3) of the Resource Management Act 1991 is the Land and Freshwater (LF) domain of Part 3.

This statement of defence is filed by Peter Anderson, solicitor for the Defendant. The address for service of the Defendant is Unit 11, 75 Gloucester St, Christchurch.

Documents for service can be left at that address or transmitted by email to [p.anderson@forestandbird.org.nz](mailto:p.anderson@forestandbird.org.nz)