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**IN THE HIGH COURT OF NEW ZEALAND  
DUNEDIN REGISTRY**

**I TE KŌTI MATUA O AOTEAROA  
ŌTEPOTI ROHE**

**CIV-2021-412-89**

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**IN THE MATTER OF**

**an 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**

**Defendant**

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**MEMORANDUM OF COUNSEL FOR THE MINISTER FOR THE  
ENVIRONMENT**

**26 October 2021**

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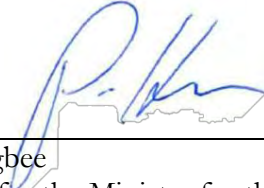
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**MAY IT PLEASE THE COURT:**

1. This proceeding is an application by the Otago Regional Council under the Declaratory Judgments Act 1908, concerning the freshwater planning process under s 80A of the Resource Management Act 1991.
2. In a minute dated 21 September 2021, Associate Judge Paulsen directed that:
  - 2.1 this proceeding be served on all primary submitters on the proposed Otago Regional Policy Statement 2021 (**PORPS**); and
  - 2.2 the time for filing a statement of defence or notice of appearance and any affidavit in support is 20 workings days after service.
3. The Minister for the Environment was a primary submitter on the PORPS, and was served on 27 September 2021. A notice of appearance is filed together with this memorandum.
4. The Minister seeks to join the proceeding as a defendant, albeit:
  - 4.1 The Minister does not actively support or oppose the declarations sought in respect of the application of the freshwater planning provisions to the PORPS.
  - 4.2 The Minister intends to provide submissions on the scheme and purpose of the freshwater planning provisions in the Resource Management Act 1991, to assist the Court.
  - 4.3 In joining the proceeding the Minister intends to preserve his ability to appeal any judgment (for example, in light of the implications of any declarations made for the wider freshwater planning process).
5. A hearing is set down for 8 and 9 February 2022. The current timetable is for the plaintiff to file submissions 15 working days prior to the hearing, and the defendant to do so 10 working days before the hearing. The Minister

respectfully seeks a direction that he is to file submissions at the same time as the first defendant.

26 October 2021



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Polly Higbee  
Counsel for the Minister for the Environment

**TO:** The Registrar of the High Court of New Zealand.

**AND TO:** The plaintiff and defendant.