

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

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

CIV-2021-412-089

UNDER	the Declaratory Judgments Act 1908
IN THE MATTER	of an application under the Declaratory Judgments Act 1908
BETWEEN	OTAGO REGIONAL COUNCIL Plaintiff
AND	ROYAL FOREST AND BIRD PROTECTION SOCIETY INCORPORATED Defendant

**JOINT MEMORANDUM OF COUNSEL SEEKING LEAVE TO FILE AFFIDAVIT
EVIDENCE**

22 November 2021

Next event date: 8 February 2022

 **Simpson Grierson**
Barristers & Solicitors

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MAY IT PLEASE THE COURT

1. This joint memorandum is filed on behalf of Queenstown Lakes District Council, Dunedin City Council, Waitaki District Council and Central Otago District Council (together, the Territorial Authorities (**TAs**)), and the Plaintiff (Otago Regional Council) and the Respondent (Royal Forest and Bird Protection Society Incorporated).
2. The TAs joined the proceeding as third parties on 26 October 2021, each filing a statement of defence in accordance with the directions contained in the Minute of Associate Judge Paulsen dated 21 September 2021 (**Minute**).
3. The Minute contained timetabling directions for the proceedings, through to an 8 - 9 February 2022 fixture. The TAs did not have an opportunity to provide input to the timetabling directions as they were confirmed by the Court prior to the TAs joining this proceeding as third parties.
4. The TAs respectfully seek the opportunity to file affidavit planning evidence in respect of this matter, by way of amended timetable directions.
5. The TAs consider that this will not cause prejudice to any party because:
 - a. The TAs have already, through Statements of Defence, indicated their respective positions on the declaration proceedings; and
 - b. The TAs agree to abide by the timetabling directions that have already been set and the additional filing of affidavit evidence will not delay the hearing of this fixture on 8 February 2022.
6. There is no objection by the Plaintiff to the filing and service of any affidavits containing admissible evidence on or before 3 December 2021 provided that:

- a. The option is open to any party, other than the Plaintiff – to avoid a flurry of similar applications;
 - b. The Plaintiff has a right to file any affidavit in reply on or before 24 December 2021; and
 - c. There are no issues as to costs on this application.
7. The TAs have consulted with the other parties to the proceedings, who do not object to the amended directions.
8. Accordingly, the TAs respectfully seek that the Court issue amended timetable directions, as follows,
- a. Any party, other than the Plaintiff can file affidavit planning evidence, on or before 3 December 2021; and
 - b. The Plaintiff has a right to file any affidavit in reply on or before 24 December 2021.

DATED this 22nd day of November 2021



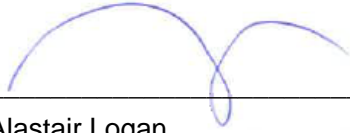
Michael Garbett
Counsel for Waitaki District Council and Dunedin City Council



Sarah Scott
Counsel for Queenstown Lakes District Council



Jayne Macdonald
Counsel for Central Otago District Council



Alastair Logan
Counsel for Otago Regional Council



Peter Anderson
Royal Forest and Bird Protection Society Incorporated