

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHĪ**

IN THE MATTER of the Resource Management Act 1991

AND of appeals under clause 14(1) of the
First Schedule of the Act

BETWEEN ARA POUTAMA AOTEAROA
DEPARTMENT OF
CORRECTIONS

(ENV-2024-CHC-21)

(and other appellants as listed in
Appendix 1 attached to this
Minute)

Appellants

AND OTAGO REGIONAL COUNCIL

Respondent

**MINUTE OF THE ENVIRONMENT COURT
(12 August 2025)**

Introduction

[1] This Minute addresses issues relating to consent documentation for appeals on the non-freshwater planning instrument parts of the proposed Otago Regional Policy Statement 2021 (pORPS21).

[2] To date the court has issued three consent orders, received consent documentation for a further two, and expects to receive documentation for six more by the end of September 2025.

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[3] The court has reviewed the consent memoranda for the integrated management and energy, infrastructure and transport chapters of pORPS21, along with their accompanying draft consent orders. These documents fail to adequately identify which specific appeal points would be resolved and which would be outstanding, as a result of the orders being issued.

[4] Counsel understandably seem to focus on the resolution of broad topics, established for mediation purposes, which generally follow the chapters of the policy statement/plan. The court, however, is only interested in being updated on resolution of specific appeal points and/or appeals as a whole.

[5] The court has become aware of a tendency of counsel to report that “appeal points of the [named appellants] to [identified plan/policy statement chapters] are fully resolved”, only to later realise that the appeal points (in contrast to the chapters) are not fully resolved at all. Usually that is because, through mediation, the parties have agreed to treat a particular appeal point as being to a related provision in another chapter of the plan, which is yet to be resolved.

[6] However, if the court were to rely on statements such as that cited in the preceding paragraph, the appeals of the named appellants would indeed be treated as being fully resolved for case management purposes, to the prejudice of the appellants involved. Of equal importance, the court must be alerted to any potential issues of scope.

Integrated Management & Energy, Infrastructure and Transport

[7] A consent memorandum and a draft consent order were filed on 7 August 2025 in relation to the Integrated Management (IM) chapter of pORPS21.

[8] At paragraphs 103 and 104 of the consent memorandum, counsel state:

103. This consent memorandum resolves all appeals on and relating to the ‘IM – Integrated management’ chapter of the Proposed Otago Regional Policy

Statement 2021.

104. Where an appeal point on a provision is not discussed in this memorandum, the appeal point has either been withdrawn, is not pursued or is resolved on the basis of agreed amendments to other provisions within the IM – Integrated management chapter.

[9] These statements are unclear and seem to be contradictory. In addition, paragraph 105 states:

No appeals on the non-freshwater planning instrument parts of the Proposed Otago Regional Policy Statement 2021 are resolved in full as a result of this consent memorandum.

[10] However, this directly contradicts paragraph A of the draft consent order which reads:

- A. Under section 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:
 - (1) the appeals are allowed subject to the amended provisions marked in Annexure 1, attached to and forming part of this consent order; and
 - (2) the appeals are otherwise dismissed.

[11] If the draft order was given effect as written, all appeals on the pORPS21 would be fully resolved and closed.

[12] The consent documentation filed for the Energy, infrastructure and transport (EIT) chapter includes the same issues outlined above.

[13] The parties are reminded that mediation is a confidential process, and the court is not privy to (or necessarily interested in knowing) detail as to the management of appeals through mediation; that is for the commissioner and parties to decide. However, when it comes to considering consent order documentation, the parties' focus must shift to a pleadings-based approach.

Directions

[14] Accordingly, I make the following **directions** in relation to **all** future consent documentation:

- (a) counsel are to include within the consent memoranda and draft consent order:
 - (i) a list of the appeal points which the order will resolve; and
 - (ii) a list of the appeals which will be fully resolved by the order.
- (b) counsel are to include within the consent memoranda a list of outstanding appeal points (if any) on the relevant topic, with an explanation as to how these appeal points are to be resolved, raising any potential issues of scope;
- (c) counsel for Otago Regional Council is to advise the court of the status of all appeals and appeal points within five working days of the issue of each consent order. This may be by way of memorandum and/or a spreadsheet which contains the relevant information.

[15] Counsel are to amend the IM and EIT consent memoranda and draft consent orders and re-file them with the court in accordance with the above directions.



P A Steven
Environment Judge

Issued: 12 August 2025



APPENDIX 1**List of appellants**

(ENV-2024-CHC-22)	Meridian Energy Limited
(ENV-2024-CHC-23)	Real Group Limited
(ENV-2024-CHC-24)	Aurora Energy Limited Network Waitaki Limited Powernet Limited
(ENV-2024-CHC-25)	Dunedin City Council
(ENV-2024-CHC-26)	Royal Forest and Bird Protection Society of New Zealand Incorporated
(ENV-2024-CHC-27)	Rayonier Matariki Forests City Forests Limited Ernslaw One Limited Port Blakely NZ Limited
(ENV-2024-CHC-28)	BP Oil New Zealand Limited Mobil Oil New Zealand Limited Z Energy Limited
(ENV-2024-CHC-29)	Oceana Gold New Zealand Limited
(ENV-2024-CHC-30)	Cain Whānau
(ENV-2024-CHC-31)	Glenpanel Limited Partnership
(ENV-2024-CHC-32)	Manawa Energy Limited
(ENV-2024-CHC-33)	Port Otago Limited
(ENV-2024-CHC-35)	Transpower New Zealand Limited

(ENV-2024-CHC-36)	Te Rūnanga o Moeraki Kāti Huirapa Rūnaka ki Puketeraki Te Rūnanga o Ōtākou Hokonui Rūnanga Te Ao Marama Incorporated Te Rūnanga o Ōraka Aparima Te Rūnanga o Awarua Te Rūnanga o Ngāi Tahu
(ENV-2024-CHC-37)	Queenstown Lakes District Council
(ENV-2024-CHC-38)	New Zealand Transport Agency Waka Kotahi
(ENV-2024-CHC-39)	Environmental Defence Society Incorporated
(ENV-2024-CHC-40)	Queenstown Airport Corporation Limited