

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

Decision No. [2025] NZEnvC 208

IN THE MATTER of the Resource Management Act 1991

AND appeals under clause 14 of the First
Schedule to the Act

BETWEEN MERIDIAN ENERGY LIMITED
(and four other appeals as set out in
Schedule One to this Order)

(ENV-2024-CHC-22)

Appellants

AND OTAGO REGIONAL COUNCIL

Respondent

Environment Judge P A Steven – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 24 June 2025

CONSENT ORDER



A: Under s279(1)(b) RMA,¹ 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 order; and

¹ Resource Management Act 1991.

- (2) the appeals, as they relate to the ‘SRMR – Significant resource management issues for the region’ chapter of the Proposed Otago Regional Policy Statement 2021, are dismissed.

B: Under s285 RMA, there is no order as to costs.

REASONS

Introduction

[1] These proceedings concern appeals by Aurora Energy Limited, Network Waitaki Limited and Powernet Limited (EDBs), Rayonier Matariki Forests, City Forests Limited, Ernslaw One Limited and Port Blakely NZ Limited (Forestry appellants), Meridian Energy Limited (Meridian), Oceana Gold (New Zealand) Limited (OGL), and Transpower New Zealand Limited (Transpower) against parts of the decision by Otago Regional Council (ORC) in respect of the proposed Otago Regional Policy Statement 2021 (PORPS).

[2] Among other relief, the appeals sought amendments to Part 1 of the PORPS which sets out how the policy statement works and how it is to be interpreted, as well as the ‘SRMR – Significant resource management issues for the region’ chapter located in ‘Part 2 – Resource management overview’ of the PORPS (SRMR chapter).

The appeals

Part 1: Introduction and general provisions

[3] ‘National direction instruments’ is a section of Part 1 which sets out the relevant national policy statements, national environmental standards, regulations and water conservation orders.

[4] The introductory text to the National Environmental Standards is the

subject of an appeal by the Forestry appellants.

[5] The appeal sought to clarify the relationship between national environmental standards and lower order plans, specifically in relation to the interrelationship between regulation 6 of the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 (NES-CF), and s32(4) RMA.

[6] The following gave notice of an intention to join this aspect of the Forestry appeal under s274 RMA:

- (a) Director-General of Conservation (DOC);
- (b) Dunedin City Council (DCC);
- (c) Otago and Central South Island Fish and Game Councils (Fish & Game); and
- (d) the Royal Forest and Bird Protection Society of New Zealand Inc (Forest & Bird).

Agreement reached

[7] The parties have agreed to resolve this part of the appeal by amending the introductory text to the National Environment Standard section as follows:

National environmental standards (NESs) are prepared by central government and can prescribe technical standards, methods (including rules) and/or other requirements for environmental matters throughout the whole country or specific areas. ~~If an activity doesn't comply with an NES, it is likely to require a resource consent. NESs must be observed and enforced by local authorities.~~ The following relevant NESs are currently in force:

[8] The parties advised that the proposed deletion seeks to simplify the introduction about what an NES is, and which NESs are currently in force.

SRMR chapter

[9] Pursuant to s62 RMA, a regional policy statement must state the significant resource management issues for the region. The SRMR chapter is also a mandatory chapter that must be included in a regional policy statement under the National Planning Standards 2019.

[10] For each regionally significant issue identified, the SRMR chapter sets out the following:

- (a) an issue statement;
- (b) context; and
- (c) impacts on the environment, economy, and society.

Introduction text

[11] The second paragraph in the ‘Introduction’ of the SRMR chapter is the subject of an appeal by the Forestry appellants.

[12] The appeal sought the inclusion of the text “plantation forestry” in the introductory text alongside the other primary production activities listed.

[13] DCC and Fish & Game gave notice of an intention to join this aspect of the Forestry appeal.

Agreement reached

[14] The parties have agreed that this part of the appeal can be resolved by amending the second paragraph in the introductory text of the SRMR chapter as follows:

From an economic perspective natural and physical resources support, and are impacted by, agricultural industries (e.g. grazing, cropping, horticulture, viticulture), plantation forestry, urban development, industrial development,

infrastructure, energy generation, transport, marine industries (fishing and aquaculture), tourism and mineral extraction. From a social, health, and cultural perspective natural and physical resources support and are impacted by food production, recreation, housing, and cultural activities.”

[15] The parties advised that it was not intended that some primary production activities be listed in the introductory text to the exclusion of others. The parties consider that the proposed amendment makes the position clear.

SRMR-I10

[16] ‘SRMR-I10 – Economic and domestic activities in Otago use natural resources but do not always properly account for the environmental stresses or the future impacts they cause’ (SRMR-I10) is the subject of appeals by OGL and the Forestry appellants.

[17] OGL’s appeal sought express recognition of the importance of the mining industry in Otago and its contribution to social and economic wellbeing.

[18] The following parties gave notice of an intention to join this aspect of OGL’s appeal under s274 RMA:

- (a) Forestry appellants;
- (b) Queenstown Airport Corporation Limited (QAC);
- (c) Otago Water Resource Users Group (OWRUG);
- (d) DOC;
- (e) Fish & Game; and
- (f) Forest & Bird.

[19] The Forestry appeal sought amendments to the ‘Statement’ section of SRMR-I10 to more accurately express the issues around sediment from primary production.

[20] The following parties gave notice of an intention to join this aspect of the

Forestry appeal under s274 RMA:

- (a) OGL;
- (b) DOC;
- (c) DCC; and
- (d) Fish & Game.

Agreement reached

[21] The parties have agreed that these appeal points can be resolved by amending the ‘Statement’ and ‘Context’ sections of SRMR-I10 as follows:

Statement

Sediment from poorly managed development and primary production activities ~~can~~ flows into streams and ~~may harm~~ builds up in the coastal environment; ~~smothering kelp forests and affecting rich underwater habitats.~~ Water abstraction and wastewater and stormwater discharges adversely affect the natural environment, cultural and amenity values, and recreation. Agriculture, and minerals extraction support employment and economic well-being but also change landscapes and habitats. Otago’s port moves freight to and from Otago and Southland, but operates alongside sensitive environments, including the Aramoana saltmarsh. Tourism and recreation, which relies on the environment, can also put pressure on natural environments.

Context

The Otago regional economy GDP totals \$13.2 billion and supports a population of 236,200 residents (over half of which are in Dunedin). A significant part of the economy relies on the region’s natural resources (air, vegetation, biodiversity, water, land, marine and minerals). This supports important regional industries, such as agriculture, forestry, fishing (6.9% of GDP), mining (4.5% of GDP), electricity, gas, water and waste services (4.4% of GDP), as well as conservation activities and hunting. Tourism (18.1% of GDP) also partially relies on the natural values of the region.

[22] The parties consider that the amendment to the ‘Statement’ section of SRMR-I10 more accurately reflects that sediment entering into receiving environments is a possibility, rather than an inevitable occurrence.

[23] The parties also consider that the amendment to the ‘Context’ section of SRMR-I10 acknowledges the importance of the regional industries listed, including mining.

SRMR-I10A

[24] The text in ‘SRMR-I10A – the social, cultural and economic wellbeing of Otago’s communities depends on the use and development of natural and physical resources, but that use and development can compromise or conflict with the achievement of environmental outcomes’ (SRMR-I10A) is the subject of appeals by the EDBs and Transpower.

[25] The EDBs’ appeal sought to replace or amend SRMR-I10A to specifically recognise the electricity distribution network, its locational constraints, and how this intersects with maintaining or protecting sensitive environments.

[26] The following parties gave notice of an intention to join this aspect of the EDBs’ appeal under s274 RMA:

- (a) Transpower;
- (b) Manawa;
- (c) Port Otago Limited;
- (d) DCC;
- (e) New Zealand Transport Agency (NZTA);
- (f) Fish & Game;
- (g) QAC;
- (h) Environmental Defence Society (EDS);
- (i) Forest & Bird;
- (j) Kāi Tahu;

- (k) Queenstown Lakes District Council (QLDC); and
- (l) DOC.

[27] Transpower's appeal sought a bespoke infrastructure-related issue statement in the SRMR chapter or amendments to the SRMR chapter to provide greater recognition of the benefits of infrastructure. The parties agreed that SRMR-I10A was the appropriate issue statement for Transpower's relief to be addressed.

[28] The following parties gave notice of an intention to join this aspect of Transpower's appeal under s274 RMA:

- (a) EDBs;
- (b) Manawa;
- (c) Meridian;
- (d) NZTA;
- (e) Fish & Game;
- (f) QAC;
- (g) EDS;
- (h) Forest & Bird;
- (i) Kāi Tahu;
- (j) QLDC;
- (k) DOC.

Agreement reached

[29] The parties have agreed that these appeal points can be resolved by amending SRMR-I10A as follows:

Statement

The ability to access, ~~and use~~ and develop natural and physical resources, including for infrastructure, primary production, mineral and aggregate extraction, tourism and industrial activities, is essential for the social, cultural and economic well-being

of the region and, in some cases, the nation. Access to, and the ability to use and develop, natural and physical resources can be impacted by regulatory changes, incompatible land uses, natural hazards and climate change. Equally, the use and development of the region's natural and physical resources can have adverse effects on the environment ~~which~~ that need to be appropriately managed.

Context

The well-being of Otago's communities relies on the ability to access, ~~and use~~ and develop the region's natural and physical resources. The quality of these resources and the ability to access them, including during emergencies and natural hazard events, has a direct bearing on the health, safety and well-being of people and communities in the region.

Failing to plan and provide for activities that contribute to the regional economy can have adverse socioeconomic consequences. Conversely, failure of activities to sustainably manage their impact on natural and physical resources can also lead to poor socioeconomic outcomes.

Appropriate access and use of natural and physical resource needs a planning framework that recognises and provides for the essential operational, locational and functional requirements of activities while managing the adverse effects of these activities. The ongoing effects of climate change (addressed elsewhere in the Issues section) will have an ongoing impact on the operation of activities.

Impact snapshot

Environmental

The use of natural and physical resources can have adverse effects on the environment, which need to be appropriately managed to avoid, remedy or mitigate the adverse effects. Loss or degradation of resources can diminish their intrinsic values. Some of Otago's natural and physical resources are nationally or regionally important for their natural values and economic potential and so warrant careful management.

However, it is recognised that the natural environment can benefit as activities change how they interact with, access, ~~and use~~ and develop natural resources. Activities that use natural and physical resources can achieve positive environmental outcomes, for example enhancing public health, safety and wellbeing, riparian planting, habitat restoration and enhancement, public access, and pest control activities. This can be as mitigation or compensation for the effects of activities or as contributions from economically sustainable activities in

the region. Some activities, for example renewable electricity generation and other infrastructure, will have a significant role to play in addressing climate change.

The functional needs and operational needs of some activities may impose locational and design constraints that can limit the extent to which some adverse effects on the environment can be avoided or mitigated.

The use and development of natural and physical resources in close proximity to existing activities may have direct, or reverse sensitivity, effects on the ability to undertake, operate, maintain, upgrade and develop those existing activities.

Economic

Activities that rely on natural and physical resources generate direct and indirect economic benefits; therefore, ~~their ability for these activities to operate, maintain, upgrade and develop or to improve their operational efficiency~~ affects the economy of the region.

Inter-regional links such as transport, electricity and communication networks traversing or originating from the Otago Region also support the economy of other regions and New Zealand generally.

The ability to access, ~~and~~ use and develop natural and physical resources or a lack of integrated management and long-term strategic planning for activities may impact the ability of activities to optimise the use of investments and assets and realise their potential economic value.

Activities that rely on natural and physical resources also rely on clear regulatory settings to inform investment decision-making about the use and development of natural and physical resources.

Social

The ability for activities to access, ~~and~~ use and develop natural and physical resources provides for the social and cultural well-being, and the health and safety, of people and communities including by supporting employment, liveability, recreation, resilience, food security and investment into communities. There is a community expectation that infrastructure is available to support our way of life.

Inappropriately located subdivision, use and development can increase the potential for harm to human health arising from incompatible activities locating in close proximity to each other.

[30] The parties consider that the proposed relief better articulates the issue,

being the importance of infrastructure including use, development and locational constraints and the interface between this and the natural environment.

SRMR-I11

[31] The text in ‘SRMR-I11 – Cumulative impacts and resilience – the environmental costs of our activities in Otago are adding up with tipping points potentially being reached’ (SRMR-I11) is the subject of an appeal by Meridian.

[32] Meridian’s appeal sought amendments to the ‘Environmental’ section of SRMR-I11 to acknowledge renewable energy’s role in the reduction of greenhouse gas emissions.

[33] Manawa and DOC gave notice of an intention to join this aspect of Meridian’s appeal under s274 RMA.

Agreement reached

[34] The parties have agreed to resolve this aspect of Meridian’s appeal by amending SRMR-I11 as follows:

Environmental

While many ecosystems have a degree of resilience, increasing pressures on the environment, typically as a result of human activities (for example economic development), can have an adverse cumulative effect. Climate change also has the potential to seriously challenge ecosystem adaptive capacity. Much work is being undertaken to address this challenge, including by reducing greenhouse gas emissions, but it is still possible that permanent changes may occur (tipping point).

[35] The significance of renewable electricity generation’s role in addressing climate change is expressly acknowledged in SRMR-I2 and SRMR-I10A, accordingly the parties have agreed that it is unnecessary to address this aspect of Meridian’s relief.

[36] The parties have agreed that SRMR-I11 should be amended to recognise the reduction of greenhouse gas emissions as a climate response.

Consideration

[37] I have read and considered the consent memorandum of the parties dated 16 April 2025 which proposes to resolve the appeal.

[38] The court notes that OWRUG has not signed the consent memorandum requesting this order. On 16 June 2025, court staff emailed counsel for OWRUG requesting confirmation as to its position on the orders sought by the other parties by 23 June 2025. The deadline to respond has now passed with no response having been received. Accordingly, I treat the proposed orders as being effectively unopposed.

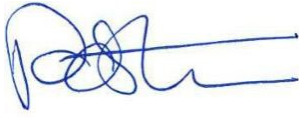
[39] The parties advise that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Pt 2.

Outcome

[40] All parties consent to the orders being made. On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought.

[41] This consent order resolves all appeals as they relate to the SRMR chapter of the PORPS.

[42] There is no order as to costs.



P A Steven
Environment Judge



SCHEDULE ONE

1. ENV-2024-CHC-24 Aurora Energy Limited & others v Otago Regional Council
2. ENV-2024-CHC-27 City Forests Limited & others v Otago Regional Council
3. ENV-2024-CHC-29 Oceana Gold (New Zealand) Limited v Otago Regional Council
4. ENV-2024-CHC-35 Transpower New Zealand Limited v Otago Regional Council

Annexure 1

The amendments are as follows (footnotes omitted):

National Environmental Standards

National environmental standards (NESs) are prepared by central government and can prescribe technical standards, methods (including rules) and/or other requirements for environmental matters throughout the whole country or specific areas. ~~If an activity doesn't comply with an NES, it is likely to require a resource consent. NESs must be observed and enforced by local authorities.~~ The following relevant NESs are currently in force:

SRMR - Significant resource management issues for the region

Introduction

From an economic perspective natural and physical resources support, and are impacted by, agricultural industries (e.g. grazing, cropping, horticulture, viticulture), plantation forestry, urban development, industrial development, infrastructure, energy generation, transport, marine industries (fishing and aquaculture), tourism and mineral extraction. From a social, health, and cultural perspective natural and physical resources support and are impacted by food production, recreation, housing, and cultural activities.

SRMR-I10 – Economic and domestic activities in Otago use natural resources but do not always properly account for the environmental stresses or the future impacts they cause

Statement

Sediment from poorly managed development and *primary production* activities can flows into streams and may harm ~~builds up in the coastal environment, smothering kelp forests and affecting rich underwater habitats.~~ *Water* abstraction and wastewater and stormwater discharges adversely affect the natural environment, cultural and amenity values, and recreation. Agriculture, and minerals extraction support employment and economic well-being but also change landscapes and habitats. Otago's port moves freight to and from Otago and Southland, but operates alongside sensitive environments, including the Aramoana saltmarsh. Tourism and recreation, which relies on the environment, can also put pressure on natural environments.

Context

The Otago regional economy GDP totals \$13.2 billion and supports a population of 236,200 residents (over half of which are in Dunedin). A significant part of the economy relies on the region's natural resources (air, vegetation, biodiversity, *water*, *land*, marine and *minerals*). This

supports important regional industries, such as agriculture, forestry, fishing (6.9% of GDP), mining (4.5% of GDP), electricity, gas, water and waste services (4.4% of GDP), as well as conservation activities and hunting. Tourism (18.1% of GDP) also partially relies on the natural values of the region.

However, economic activity needs to more effectively account for and manage its impacts on the region's natural resources. Where business and social activity does not account for its impacts on natural resources in the long term, not only is the sustainability of the region's natural resources threatened, but equally the associated long term economic, social and cultural values are also threatened.

Impact snapshot

Environmental

Economic activities can lead to, for example, biodiversity loss, poor *water* quality, coastal and marine degradation, and loss of natural features and landscapes. These and other matters are considered in further detail elsewhere in this chapter.

Negative impacts on the *environment* can also compromise the ecosystems and the services economic activities depend on (ecosystem services), for example loss of *wetlands* which provide flood attenuation services, loss of biodiversity which provide pest control and pollination services, and loss of soil biodiversity. Economic activity also has the potential to compromise or destroy natural features and landscapes. Such impacts are both immediate and cumulative. Cumulative impacts that are not addressed have the potential to lead to tipping points beyond which systems can no longer properly function.

Economic

The costs of production can rise because of poor quality natural resources, for example, through higher input costs (e.g. fertiliser, weed and pest control); and remediation requirements (e.g. riverbank restoration, erosion control). Some land management practices can compromise the ability of land to support *primary production*, for example, loss of soil through erosion or soil structure through compaction. Marine industries (e.g. fishing and aquaculture) can also be adversely affected.

Business environmental performance is becoming increasingly important in terms of providing access to investment. Poor business environmental performance can also lead to increased regulatory requirements and associated higher costs of doing business.

Social

Damage to or loss of natural features and landscapes compromises *amenity values*. Failure of business to sustainably manage their impact on natural resources can also have social impacts. In extreme cases it can lead to reduced access to resources.

SRMR-I10A – The social, cultural and economic well-being of Otago's communities depends on the use and development of *natural and physical resources*, but that use and development can compromise or conflict with the achievement of *environmental outcomes*

Statement

The ability to access, ~~and use~~ and develop *natural and physical resources*, including for *infrastructure, primary production, mineral* and aggregate extraction, tourism and *industrial activities*, is essential for the social, cultural and economic well-being of the region and, in some cases, the nation. Access to, and the ability to use and develop, *natural and physical resources* can be impacted by regulatory changes, incompatible *land uses*, *natural hazards* and *climate change*. Equally, the use and development of the region's *natural and physical resources* can have adverse *effects* on the *environment* ~~which that~~ need to be appropriately managed.

Context

The well-being of Otago's communities relies on the ability to access, ~~and use~~ and develop the region's *natural and physical resources*. The quality of these resources and the ability to access them, including during emergencies and natural hazard events, has a direct bearing on the health, safety and well-being of people and communities in the region.

Failing to plan and provide for activities that contribute to the regional economy can have adverse socioeconomic consequences. Conversely, failure of activities to sustainably manage their impact on natural and physical resources can also lead to poor socioeconomic outcomes.

Appropriate access and use of *natural and physical resources* needs a planning framework that recognises and provides for the essential operational, locational and functional requirements of activities while managing the adverse *effects* of these activities. The ongoing *effects* of climate change (addressed elsewhere in the Issues section) will have an ongoing impact on the operation of activities.

Impact snapshot

Environmental

The use of *natural and physical resources* can have adverse *effects* on the *environment*, which need to be appropriately managed to avoid, remedy or mitigate the adverse effects. Loss or degradation of resources can diminish their intrinsic values. Some of Otago's natural and physical resources are nationally or regionally important for their natural values and economic potential and so warrant careful management.

However, it is recognised that the natural environment can benefit as activities change how they interact with, access, ~~and use~~ and develop natural resources. Activities that *use natural and physical resources* can achieve positive *environmental outcomes*, for example enhancing public health, safety and wellbeing, riparian planting, habitat restoration and enhancement, public access, and *pest* control activities. This can be as mitigation or compensation for the effects of activities or as contributions from economically sustainable activities in the region. Some activities, for example renewable electricity

generation and other infrastructure, will have a significant role to play in addressing climate change.

The functional needs and operational needs of some activities may impose locational and design constraints that can limit the extent to which some adverse effects on the environment can be avoided or mitigated.

The use and development of natural and physical resources in close proximity to existing activities may have direct, or reverse sensitivity, effects on the ability to undertake, operate, maintain, upgrade and develop those existing activities.

Economic

Activities that rely on *natural and physical resources* generate direct and indirect economic benefits; therefore, their ability for these activities to operate, maintain, upgrade and develop or to improve their operational efficiency affects the economy of the region.

Inter-regional links such as transport, electricity and communication networks traversing or originating from the Otago Region also support the economy of other regions and New Zealand generally.

The ability to access, and use and develop natural and physical resources or a lack of integrated management and long-term strategic planning for activities may impact the ability of activities to optimise the use of investments and assets and realise their potential economic value.

Activities that rely on *natural and physical resources* also rely on clear regulatory settings to inform investment decision-making about the use and development of *natural and physical resources*.

Social

The ability for activities to access, and use and develop natural and physical resources provides for the social and cultural well-being, and the health and safety of people and communities including by supporting employment, liveability, recreation, resilience, food security and investment into communities. There is a community expectation that infrastructure is available to support our way of life.

Inappropriately located subdivision, use and development can increase the potential for harm to human health arising from incompatible activities locating in close proximity to each other.

SRMR-I11 – Cumulative impacts and *resilience* – the environmental costs of our activities in Otago are adding up with tipping points potentially being reached

Statement

How and where we currently live is likely to change significantly in coming years. To respond to all the issues identified in this RPS, it is essential to consider changes to how we travel, the industries our economy relies on, the

use we currently make of the *natural and physical resources* of the region, and how we provide for personal and community well-being, all while protecting our natural environment.

Context

The long term environmental, economic, and social well-being of the Otago region requires anticipating and minimising cumulative environmental impacts before they reach a tipping point, beyond which systems can no longer properly function. This requires *resilient* frameworks that take account of the dynamic relationship between the *environment*, economy and people while acknowledging that the future is always uncertain, and knowledge is imperfect. Should a tipping point be reached a *resilient* Otago society will have the ability to absorb, respond to, adapt to, and recover from disruptive events.

Impact snapshot

Environmental

While many ecosystems have a degree of *resilience*, increasing pressures on the *environment*, typically as a result of human activities (for example economic development), can have an adverse cumulative *effect*. *Climate change* also has the potential to seriously challenge ecosystem adaptive capacity. Much work is being undertaken to address this challenge, including by reducing greenhouse gas emissions, but it is still possible that permanent changes may occur (tipping point).

The first and best response is to ensure sustainable management of our natural resources and avoid immediate and long-term cumulative *effects* that degrade the *environment*. At the same time a *resilience* approach is needed that identifies thresholds or sets limits on the use of natural resources to avoid permanent and potentially catastrophic changes occurring, as would occur if a tipping point is reached.

Indicators and tools for measuring *resilience* and tipping points remain in the early stages of understanding and development. Even though regulatory agencies and proponents for natural resource development and environmental rehabilitation projects have difficulties interpreting and verifying the potential for environmental recovery and *resilience* (particularly in relation to the regulatory context of impact assessment in order to provide consenting decisions for regulated activities) that should not be taken as a reason to delay acting.

Social and economic

The well-being of Otago's people and communities in the long term will be sustained by the enduring ecological health and *resilience* of the *environment* and by human activity providing for the *environment* in equal or greater measure than is taken from it (in other words, net impact determines net well-

being). It will also be sustained through community *resilience* so that it can adapt and nimbly respond to future challenges.

