

S14 - 1

BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

IN THE MATTER of the Resource Management Act 1991
AND of appeals under clause 14(1) of Schedule 1
to the Act
BETWEEN ALLIANCE GROUP LIMITED
(ENV-2016-CHC-112)
ENVIRONMENTAL DEFENCE SOCIETY
INCORPORATED
(ENV-2016-CHC-122)
FEDERATED FARMERS OF NEW
ZEALAND INCORPORATED
(ENV-2016-CHC-120)
HORTICULTURE NEW ZEALAND
(ENV-2016-CHC-114)
OTAGO WATER RESOURCE USERS
GROUP
(ENV-2016-CHC-124)
OCEANA GOLD NEW ZEALAND LIMITED
(ENV-2016-CHC-103)
REMARKABLES PARK LIMITED AND
QUEENSTOWN PARK LIMITED
(ENV-2016-CHC-119)
Appellants
AND OTAGO REGIONAL COUNCIL
Respondent

Environment Judge J R Jackson – sitting alone pursuant to section 279 of the Act

In Chambers at Christchurch

Date of Consent Order: 06 JUL 2018

OTAGO REGIONAL POLICY STATEMENT – SECTION 5.4 CONSENT ORDER



CONSENT ORDER
(Adverse Effects of Enjoying Otago's Natural and Physical Resources)

A: Under section 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeals are allowed to the extent that the Otago Regional Council is directed to amend the Proposed Otago Regional Policy Statement as set out in Appendix 1 attached to and forming part of this order; and
- (2) the appeals insofar as they relate to Section 5.4: Adverse Effects of Using and Enjoying Otago's Natural and Physical Resources (with the exception of Policies 5.4.6 and 5.4.8) are otherwise dismissed.

B: Under section 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] The following parties have lodged appeals under clause 14(1) of Schedule 1 of the Resource Management Act 1991 ("the RMA" or "the Act") against parts of a decision of the Otago Regional Council on Section 5.4: Adverse Effects of Using and Enjoying Otago's Natural and Physical Resources of the Proposed Otago Regional Policy Statement:

- (a) Alliance Group Limited (dated 8 December 2016);
- (b) Environmental Defence Society Incorporated (dated 9 December 2016);
- (c) Federated Farmers of New Zealand Incorporated (dated 9 December 2016);
- (d) Horticulture New Zealand (dated 9 December 2016);
- (e) Otago Water Resource Users Group (dated 9 December 2016);
- (f) Oceana Gold New Zealand Limited (dated 9 December 2016); and
- (g) Remarkables Park Limited and Queenstown Park Limited (dated 9 December 2016).



[2] The court has now read and considered the consent memorandum of the parties dated 22 June 2018 which proposes to resolve these appeals in respect of Section 5.4 (Adverse Effects of Using and Enjoying Otago's Natural and Physical Resources), with the exception of Policies 5.4.6 and 5.4.8 which are still in dispute and were the subject of hearing in February 2018.

Other relevant matters

[3] A number of parties joined these appeals under s 274 of the RMA and have signed the memorandum setting out the relief sought.¹

Orders

[4] The court is making this order under section 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the court's endorsement fall within the court's jurisdiction, and conform to the purpose and principles of the Act including, in particular, Part 2.



J R Jackson
Environment Judge



¹ As set out in full in the Consent Memorandum: Adverse Effects of Using and Enjoying Otago's Natural and Physical Resources dated 22 June 2018.

APPENDIX 1

Policy 5.4.1 Offensive or Objectionable discharges

Manage offensive or objectionable discharges to land, water and air that are objectionable or offensive to Kāi Tahu and/or the wider community by:

- a) Avoiding significant adverse effects of those discharges;
- b) Avoiding significant adverse effects of discharges of human or animal waste directly, or in close proximity, to water or mahika kai sites;
- cb) Avoiding, remedying or mitigating other adverse effects of those discharges.

Policy 5.4.3 Precautionary approach to adverse effects

Apply a precautionary approach to activities where adverse effects may be uncertain, not able to be determined, or poorly understood but are potentially significant or irreversible.

Policy 5.4.5 Pest plants and animals

Control the adverse effects of pest species, prevent their introduction, and reduce their spread and enable the removal and destruction of material for biosecurity purposes, to safeguard all of the following:

- a) The viability of indigenous species and habitats for indigenous species;
- b) Ecosystem services that support economic activities;
- c) Water quality and water quantity;
- d) Soil quality;
- e) Human and animal health;
- f) Recreation values;
- g) Landscapes, seascapes and natural character;
- h) Primary production.

Policy 5.4.9 Activities in the Coastal Marine Area

In the coastal marine area minimise adverse effects from activities by all of the following:

- a) Avoiding activities that do not have a functional need to locate in the coastal marine area;
- b) When an activity has a functional need to locate in the coastal marine area, giving preference to avoiding its location in:
 - i. Areas of significant indigenous vegetation and significant habitats of indigenous fauna;
 - ii. Outstanding natural features, landscapes and seascapes;
 - iii. Areas of outstanding natural character;
 - iv. Places or areas containing historic heritage of regional or national significance;
 - v. Areas subject to significant natural hazard risk;



- c) Where it is not practicable to avoid locating in the areas listed in b) above, because of the functional needs of that activity:
- i. Avoid adverse effects on the values that contribute to the significant or outstanding nature of b)i.-iii;
 - ii. Avoid significant adverse effects on natural character and natural landscapes in all other areas of the coastal environment;
 - iii. Avoid, remedy or mitigate adverse effects on values as necessary to preserve historic heritage of regional or national significance;
 - iv. Minimise any increase in natural hazard risk through mitigation measures;
 - v. Avoiding, remedying, or mitigating adverse effects on other values;
- d) Providing for the efficient use of space by requiring structures be made available for public or multiple use wherever reasonable and practicable;
- e) Applying a precautionary approach to assessing the effects of the activity, where there is scientific uncertainty, and potentially significant or irreversible adverse effects;

Method 3: Regional Plans

Objectives, policies and methods to implement the following policies:

3.1.17 Policy 5.4.5: by including provisions managing removal and disposal of material for biosecurity purposes.

Method 4: City and District Plans

Objectives, policies and methods to implement the following policies:

4.1.21 Policy 5.4.5: by including provisions managing removal and disposal of material for biosecurity purposes.

