

IN THE ENVIRONMENT COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY

I MUA I TE KŌTI TAIAO O AOTEAROA
TE ĪTAUTAHI ROHE

ENV-2024-CHC-091

UNDER

The Resource Management
Act 1991 (**RMA**)

IN THE MATTER OF

An appeal pursuant to Clause
14(1) of the First Schedule of
the RMA.

BETWEEN

**THE ROYAL FOREST AND
BIRD PROTECTION SOCIETY
OF NEW ZEALAND
INCORPORATED**

Appellant

AND

**MACKENZIE DISTRICT
COUNCIL**

Respondent

NOTICE OF OPUHA WATER LIMITED'S WISH TO BE PARTY TO APPEAL

Pursuant to section 274 of the Resource Management Act 1991

Dated: 7 October 2024

GRESSON DORMAN & CO

Solicitors

PO Box 244, Timaru 7940

Telephone 03 687 8004

Facsimile 03 684 4584

Solicitor acting: G C Hamilton / L K O'Brien

georgina@gressons.co.nz / lucy@gressons.co.nz

TO: The Registrar
Environment Court
Christchurch

1. Opuha Water Limited (**OWL**) wishes to be a party to the following proceedings:
 - (a) *The Royal Forest and Bird Protection Society of New Zealand Incorporated v Mackenzie District Council* (ENV-CHC-2024-091) being an appeal dated 16 September 2024 under clause 14 of Schedule 1 of the Resource Management Act 1991 (**RMA**) against the decision of the Mackenzie District Council on Plan Change 23 (**PC23**) and Plan Change 26 (**PC26**) to the Mackenzie District Plan (**Appeal**).
2. OWL has an interest in the proceedings that is greater than the interest that the general public has because:
 - (a) OWL owns and operates the Opuha Dam and related infrastructure supporting hydroelectricity generation, and irrigation and community supply schemes in the eastern part of the Mackenzie District.
 - (b) The hydroelectricity generation component of the Opuha Dam is of national significance under the National Policy Statement for Renewable Electricity Generation 2011 (**NPS-REG**).
 - (c) The Opuha Dam and OWL's hydroelectric and irrigation and community supply schemes is of strategic importance and is recognised in the following regional planning documents:
 - (i) The Canterbury Regional Policy Statement (**CRPS**) – the hydroelectric scheme is “regionally significant infrastructure” for the purpose of this document; and
 - (ii) The Canterbury Land and Water Regional Plan (**CLWRP**) – the national benefits of the Opuha hydroelectric and

irrigation and community supply schemes is recognised within Policy 4.51 and 5.125C of this document, and OWL's status as a "principal water supplier" is also recognised and provided for through the CLWRP's policy and rule framework, including the amendments made by Plan Change 7;

and

(d) OWL made:

- (i) A primary submission on aspects of PC23 and PC26 to the Mackenzie District Plan that are the subject of the Appeal; and
- (ii) Further submissions on the Appellant's primary submission on aspects of PC23 and PC26 to the Mackenzie District Plan that are the subject of the Appeal.

3. OWL is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991.
4. OWL is interested in the appeal points relating to the following provisions of the Mackenzie District Plan:
 - (a) GRUZ-P5: Existing activities on highly productive land;¹
 - (b) The introductions to the Renewable Electricity Generation (**REG**) and Infrastructure (**INF**) chapters;²
 - (c) REG-O1: General output;³
 - (d) REG-O2: Adverse effects;⁴
 - (e) REG-P3A: Opuha Scheme and the Waitaki Power Scheme;⁵

¹ Appeal Point 10.

² Appeal Point 11.

³ Appeal Point 12.

⁴ Appeal Point 13.

⁵ Appeal Point 14.

- (f) REG-P4: Investigation activities and small-scale renewable electricity generation activities;⁶
- (g) REG-P5: Other renewable electricity generation activities;⁷
- (h) REG-P6: Other renewable electricity generation activities – within areas of significant indigenous vegetation and significant habitats of indigenous fauna, Outstanding Natural Landscapes, Outstanding Natural Features, riparian areas and Sites and Areas of Significance to Māori or on highly productive land;⁸
- (i) REG-R1: All zones – operation and maintenance of an existing hydroelectric power station and associated structures;⁹
- (j) REG-R2: All zones – upgrade of an existing hydroelectric power station and structures associated with the Opuha Scheme, or within the existing footprint or core sites of the Waitaki Power Scheme;¹⁰
- (k) REG-R6: Small-scale renewable electricity generation activities including associated clearance of indigenous vegetation and earthworks for roads and access tracks;¹¹
- (l) REG-R6A: Any new buildings or structures or accessory building to an existing hydroelectric power station associated with the Opuha Scheme, or within the existing footprint or core sites of the Waitaki Power Scheme;¹²
- (m) REG-R7: Any renewable electricity generation activities not otherwise listed including associated clearance of indigenous vegetation and earthworks for roads and access tracks;¹³
- (n) INF-P4: Managing adverse effects of infrastructure;¹⁴

⁶ Appeal Point 15.

⁷ Appeal Point 16.

⁸ Appeal Point 17.

⁹ Appeal Point 19.

¹⁰ Appeal Point 20.

¹¹ Appeal Point 24.

¹² Appeal Point 25.

¹³ Appeal Point 26.

- (o) INF-P5: Infrastructure in sensitive or significant areas;¹⁵
- (p) INF-P7: Infrastructure in significant indigenous vegetation and significant habitats of indigenous fauna;¹⁶
- (q) The interrelationship between the REG and INF chapters of the Mackenzie District Plan with the Ecosystems and Indigenous Biodiversity (**EIB**) Section.¹⁷

5. OWL opposes the relief sought by the Appellant, because:

- (a) The relief sought has the potential to impose increased consenting obligations on the current and future operations of the Opuha Dam and its related infrastructure, which will hinder its present and future performance and functionality.
- (b) The relief sought undermines OWL's ability to maintain and upgrade the Opuha Dam and its related infrastructure because the relief sought is inconsistent with:
 - (i) The purpose and principles in Part 2 of the RMA;
 - (ii) Section 32 of the RMA;
 - (iii) The requirements for district plans set out in sections 72, 74, and 75 of the RMA;
 - (iv) The NPS-REG; and
 - (v) Integration of the Mackenzie District Plan.
- (c) OWL considers the decisions version of PC23 and PC26 to the Mackenzie District Plan gives better effect to the NPS-REG, CRPS and the CLWRP than the relief sought by the Appellant.

¹⁴ Appeal Point 28.

¹⁵ Appeal Point 29.

¹⁶ Appeal Point 30.

¹⁷ Appeal Point 31.

6. OWL agrees to participate in mediation or other alternative dispute resolution of the proceedings.

Dated: 7 October 2024

A handwritten signature in blue ink, appearing to read "Georgina Hamilton".

Georgina Hamilton
Counsel for Opuha Water Limited

Address for service of person wishing to be a party:

Gresson Dorman & Co
PO Box 244, Timaru 7940

Telephone: 03 687 8004
Facsimile: 03 684 4584
Solicitors acting: Georgina Hamilton / Lucy O'Brien
Contact Emails: georgina@gressons.co.nz / lucy@gressons.co.nz

Advice

If you have any questions about this notice, please contact the Environment Court in Auckland, Wellington, or Christchurch.