

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

Decision No. [2025] NZEnvC 395

IN THE MATTER of the Resource Management Act 1991

AND an appeal 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)

Appellant

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: 9 December 2025

CONSENT ORDER

A: Under s279(1)(b) RMA,¹ the Environment Court, by consent, orders that:

- (1) the following appeal points are allowed subject to amendment of the provisions in the ‘HCV – Historical and cultural values’ (HCV) chapter of the proposed Otago Regional Policy Statement (Non-

¹ Resource Management Act 1991.



freshwater) 2021 as set out in Annexure 1, attached to and forming part of this Order:

- (a) Cain Whānau’s appeal points in relation to:
 - (i) HCV-WT-O2 – Rakatiraka;
 - (ii) HCV-WT-P1 – Recognise and identify wāhi tupuna;
 - (iii) HCV-WT-M1 – Identification;
 - (iv) HCV-HH-M4 – Regional plans;
 - (v) HCV-HH-M5 – District plans; and
 - (vi) HCV-HH-M6 – Incentives and education.
 - (b) Oceana Gold (New Zealand) Limited’s appeal point in relation to:
 - (i) HCV-HH-P5 – Managing historic heritage.
 - (c) Transpower New Zealand Limited’s appeal point in relation to:
 - (i) HCV-HH-P5.
- (2) the appeals, in respect of the HCV chapter of the PORPS, are otherwise dismissed.

B: Under s285 of the Act, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns appeals against parts of the decisions by Otago Regional Council (ORC) on the proposed Otago Regional Policy Statement (Non-freshwater) 2021 (PORPS) in relation to provisions in the ‘HCV – Historical and cultural values’ (HCV) chapter located in ‘Part 3 – Domains and topics’.

[2] Five appeals sought amendments to the provisions of the HCV chapter:

- (a) Meridian Energy Limited (Meridian);
- (b) Oceana Gold (New Zealand) Limited (OGL);
- (c) Cain Whānau;

- (d) Transpower New Zealand Limited (Transpower); and
- (e) Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtakou and Hokonui Rūnanga, Te Ao Marama Incorporated on behalf of Waihopai Rūnaka, Te Rūnanga o Ōraka Aparima, and Te Rūnanga o Awarua and Te Rūnanga o Ngāi Tahu (Kāi Tahu).

[3] At a high level, the HCV chapter includes:

- (a) the recognition, identification and protection of wāhi tupuna and the rakatirataka of mana whenua over these areas;
- (b) the identification of historic heritage; and
- (c) the protection and management of those sites or areas to ensure that Otago's unique historic heritage continues to contribute to the region's character, sense of identity, and social and economic wellbeing.

HCV-HH-P5 – Managing historic heritage

[4] OGL, Transpower and Cain Whānau appealed the Decisions Version of HCV-HH-P5.

OGL

[5] HCV-HH-P5 provides the framework for managing effects on historic heritage. Clause 2 requires the avoidance of adverse effects on special or outstanding historic heritage or qualities, except as provided for in subclauses (a) to (f).

[6] OGL's appeal sought the inclusion of an additional exception in the clause 2 list, to recognise that sometimes development can enable greater access to and understanding of the historic heritage values.

[7] The following persons gave notice of an intention to join this part of OGL's appeal under s274 RMA:

- (a) Rayonier Matariki Forests, City Forests Limited, Ernslaw One Limited and Port Blakely NZ Limited (Forestry appellants);
- (b) Otago Water Resources Users Group (OWRUG);
- (c) Otago and Central South Island Fish and Game Councils (Fish & Game);
- (d) the Royal Forest and Bird Protection Society of New Zealand Inc (Forest & Bird);
- (e) Director-General of Conservation (DGC); and
- (f) Queenstown Airport Corporation (QAC).

Transpower

[8] Transpower's appeal sought an exemption to HCV-HH-P5 for the National Grid or an amendment to the policy to "fully give effect to" the National Policy Statement on Electricity Transmission (NPS-ET).

[9] The following persons gave notice of an intention to join this part of Transpower's appeal under s274 RMA:

- (a) Aurora Energy Limited, Network Waikato Limited and PowerNet Limited;
- (b) Forestry appellants;
- (c) OGL;
- (d) Fish & Game;
- (e) DGC;
- (f) Kāi Tahu; and
- (g) Forest & Bird.

Cain Whānau

[10] Cain Whānau’s appeal sought relief with respect to any provisions in the PORPS that apply to or affect Māori land, to ensure owners of Māori land can protect, occupy, subdivide, develop, and use their resources (inclusive of land, freshwater, coastal water and coastal marine area) to benefit their social, economic, cultural, educational, recreational, and environmental wellbeing as their secondary alternate relief.

[11] HCV-HH-P5 was identified as a policy caught by Cain Whānau’s secondary relief; however, Cain Whānau subsequently advised they were not seeking amendments to any provisions in this chapter.

Resolution

[12] The parties proposed that HCV-HH-P5 be amended as follows (amendments henceforth show additions as underlined and deletions in strikethrough):

HCV-HH-P5 – Managing historic heritage

Except as provided for in EIT-INF-P13 and EIT-INF-PX, protect historic heritage from inappropriate subdivision, use and development by:

- (1) requiring the use of accidental discovery protocols in accordance with APP11,
- (2) avoiding adverse effects on areas or places which have been identified as having special or outstanding historic heritage or qualities, except that in circumstances (a) to (f) below, they are remedied or mitigated to the extent practicable:
 - (a) where HCV-HH-P6A applies, or
 - (b) a project has significant public benefit that outweighs the loss of historic heritage; or
 - (c) the activity has functional or locational constraints; and
 - (i) has a significant public benefit; or
 - (ii) will enable access to, and enhance people’s understanding and

appreciation of, the historic heritage area or place, or

- (d) the area or place is already impacted by an existing, lawfully established activity; or
 - (e) there is significant risk to safety or property; or
 - (f) any adverse effects are minor and relate to work necessary to adapt a historic heritage building to modern use: and;
- (3) avoiding, remedying or mitigating adverse effects on other areas or places with historic heritage values or qualities.

[13] The parties advised that the proposed amendment to clause (2)(c) allows decision makers, in limited circumstances, to consider an activity that might not otherwise be able to meet one of the exceptions in clause (2), provided that activity can demonstrate both a functional or locational constraint and will enable access to, and enhance, people's understanding and appreciation of, the historic heritage area or place.

[14] Transpower's appeal point is in part resolved by way of new Policy EIT-INF-PX which was confirmed by the court on 2 October 2025.² A further change to HCV-HH-P5 is proposed to include reference to new Policy EIT-INF-PX which applies to the National Grid, alongside the existing reference to EIT-INF-P13 for Regionally Significant Infrastructure.

[15] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 6(f) and 7(c).

Other relevant matters

[16] No appeals on the non-freshwater planning instrument parts of the PORPS are fully resolved as a result of this order.

[17] The parties advise that there are no outstanding appeal points on the HCV

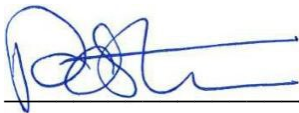
² [2025] NZEnvC 323.

chapter as a result of this order.

[18] 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

[19] All parties to the proceeding have executed the memorandum requesting the orders. 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.



P A Steven
Environment Judge



SCHEDULE ONE

1. Meridian Energy Limited v ORC (ENV-2024-CHC-22)
2. Oceana Gold (New Zealand) Limited v ORC (ENV-2024-CHC-29)
3. Cain Whānau v ORC (ENV-2024-CHC-30)
4. Transpower New Zealand Limited v ORC (ENV-2024-CHC-34)
5. Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtakou and Hokonui Rūnanga, Te Ao Marama Incorporated on behalf of Waihopai Rūnaka, Te Rūnanga o Ōraka Aparima, and Te Rūnanga o Awarua and Te Rūnanga o Ngāi Tahu (ENV-2024-CHC-36)

Annexure 1

The amendments are as follows:

HCV-HH-P5 – Managing *historic heritage*

Except as provided for in EIT-INF-P13 and EIT-INF-PX, protect *historic heritage* from inappropriate *subdivision*, use and development by:

- (1) requiring the use of accidental discovery protocols in accordance with APP11,
- (2) avoiding adverse *effects* on areas or places which have been identified as having special or outstanding *historic heritage* or qualities, except that in circumstances (a) to (f) below, they are remedied or mitigated to the extent practicable:
 - (a) where HCV-HH-P6A applies, or
 - (b) a project has significant public benefit that outweighs the loss of *historic heritage*; or
 - (c) the activity has functional or locational constraints; and
 - (i) has a significant public benefit; or
 - (ii) will enable access to, and enhance people's understanding and appreciation of, the *historic heritage* area or place, or
 - (d) the area or place is already impacted by an existing, lawfully established activity; or
 - (e) there is significant risk to safety or property; or
 - (f) any adverse *effects* are minor and relate to work necessary to adapt a *historic heritage* building to modern use- and;
- (3) avoiding, remedying or mitigating adverse *effects* on other areas or places with *historic heritage* values or qualities.

