

**Before the Hearing Commissioners
In Dunedin**

Under the Resource Management Act 1991 (the Act)

In the matter of Submissions on the Proposed Otago Regional Policy Statement
2021

Between **Otago Regional Council**
Local Authority

And **Waka Kotahi NZ Transport Agency**
Submitter 00305

**Evidence in chief of Julie McMinn for Waka Kotahi NZ Transport Agency on
Chapter 12 HAZ – Natural Hazards (Planning)**

Dated 23 November 2022

1 **Executive Summary**

- 1.1 Waka Kotahi NZ Transport Agency (Waka Kotahi) is satisfied that their submission points to HAZ-NH-P4, P5, P7, P8 and P9 have been addressed by the Section 42a report and supplementary evidence.
- 1.2 Waka Kotahi seeks to modify HAZ-NH-P3 - New activities, to include the words (or something similar to achieve a similar outcome) “, **except for nationally significant infrastructure**” within this policy to recognise that State highways and other nationally significant infrastructure may have little choice but to locate in areas of natural hazard risk.
- 1.3 Waka Kotahi also seek to amend HAZ-NH- P6 - Protecting features and systems that provide hazard mitigation, to add the following (or something similar to achieve a similar outcome): **except where nationally significant infrastructure that has a functional or operational need to locate in these areas and the risk is appropriately managed.**

2 **Qualifications and Experience**

- 2.1 My full name is Julie McMinn. I am a Senior Planner at WSP where I have been employed as a planner for the last 29 years. As part of my WSP role I undertake consultancy planning services for the Dunedin Regional Office of Waka Kotahi NZ Transport Agency (**‘Waka Kotahi’**) where I have been employed by Waka Kotahi on a consultancy basis for the last 6 years.
- 2.2 As part of my role at Waka Kotahi I undertake planning work including assessing applications for resource consents and providing recommendations on requests for written approvals from Waka Kotahi under section 95 of the Resource Management Act. I also, where requested, assess, prepare submissions, comments and submit evidence for various notified resource consents, plan changes and Environmental Protection Authority Fast-track consenting proposals within the Otago region.
- 2.3 Outside my Waka Kotahi commitments I also undertake consultant planning services for other clients preparing resource consent applications, notices of requirements and stakeholder engagement and planning policy assessment. I have been based in Dunedin for my planning career and most of my planning experience is for projects based within the Otago and Southland Regions.
- 2.4 I hold the qualification of a Diploma of Regional and Resource Planning from Otago University a Bachelor of Science (Geography and Geology) and a Post Graduate Diploma in Engineering Geology from Canterbury University.

2.5 My evidence relates to Waka Kotahi's submission points on Part 3 -Domains and Topics, Topic HAZ – Hazards and Risk, in particular, HAZ – NH (Chapter 12) of the Proposed Otago Regional Policy Statement 2021 ('**pORPS**').

2.6 I attended the natural hazard part of the Hazards and risks pre-hearing meeting for Chapter 12 on 15 June 2022.

3 Code of Conduct

3.1 While I am consultant for Waka Kotahi, I am giving certain parts of my evidence in the capacity of an independent expert and Waka Kotahi has authorised me to do so. I understand that this requires me to give these parts of my evidence from an independent view and not as an advocate for Waka Kotahi. The parts of my evidence which I am giving as an independent planning expert are:

a Paragraphs 7 to 7.17

3.2 While these proceedings are not before the Environment Court, I confirm that I have read the Code of Conduct for Expert Witnesses as contained in the Environment Court's Consolidated Practice Note 2014. I have complied with the Practice Note when preparing my written statement of evidence, and I will do so when I give oral evidence before the Freshwater Hearings Panel. My qualifications as an expert are set out above.

3.3 The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence to follow.

3.4 Unless I state otherwise, this evidence is within my sphere of expertise, and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

4 Scope of evidence

4.1 My evidence will address the following:

a Relevance of the HAZ- NH Natural Hazards to Waka Kotahi.

b Summary of Waka Kotahi's key submission points.

c Recognition and provision for infrastructure

5 Relevance of HAZ – Natural Hazards to Waka Kotahi

5.1 Section 96(1)(a) of the Land Transport Management Act requires that Waka Kotahi exhibits a sense of social and environmental responsibility

5.2 As a result, Waka Kotahi has developed an environmental and social responsibility policy promoting an accessible and safe transport system that contributes positively to New Zealand's economic, social and environmental welfare, and committed to acting in an environmentally and socially responsible manner.

5.3 To implement of this policy Waka Kotahi, amongst other matters, have committed to:

- promoting the safe and efficient movement of goods and people in a manner that avoids, to the extent reasonable in the circumstances, adverse environmental and social impacts
- continuously improve performance in the management of environmental and social impacts

5.4 As a result, it is important to Waka Kotahi, where structures are required to protect the State highway network from natural hazards, the effects of developing, construction and ongoing maintenance of these structures are managed in a way, where possible, to mitigate any potential adverse environmental effects.

6 **Summary of Waka Kotahi's HAZ –NH key submission points:**

6.1 Waka Kotahi submission points were:

- Hard Protection Structure Definition: amend to:

*Outside the coastal environment, means any dam, weir, stopbank, **carriageway**, **groynes**, **reservoir**, **rip rap**, and any structure or appliance of any kind which is specifically established for the purpose of natural hazard mitigation.*

- HAZ-NH-P4 – retain as notified
- HAZ-NH-P5 – retain as notified
- HAZ-NH-P7 – retain as notified
- HAZ-NH-P8 – general support but seek to amend the wording to:

*Locate, relocate (**where practicable**), and design lifeline utilities and facilities for essential or emergency services to:*

- HAZ-NH-P9 – retain as notified

- HAZ-NH-M4 – retain as notified

6.2 Waka Kotahi further submission points included:

- HAZ-NH-P3 Transpower NZ Ltd (submission point 00314.0044), Aurora Energy Ltd (submission point 00315.061), and Dunedin City Council (DCC) (Submission Point 00139.196) i.e., Waka Kotahi supported P3 providing for nationally significant infrastructure e.g., State highways where they cannot avoid locating in an area of significant hazard risk.
- Haz-NH-P6 DCC (Submission point 00139.199) Waka Kotahi supports the request to recognise that this policy should operate consistently with the infrastructure policies of the plan.

7 Recognition and provision for infrastructure

Hard Protection Structure Definition

7.1 The Section 42A Report recommendation is to reject the Waka Kotahi submission to add the words “rip rap” to the definition of hard protection structures outside the coastal environment. I disagree with this recommendation as rock rip rap is often used in different scenarios as a form of erosion protection, its’ use however is not always in the form of a specified structure identified or alluded to in the HAZ-NH-P6 list. In my opinion the inclusion of “rip rap” in the definition would clarify that the use rip rap in all its forms can be considered as a hard protection structure and therefore covered by the definition.

HAZ-NH-P4, P5, P7 and P8

7.2 Waka Kotahi is accepting of the changes outlined in the Section 42A report for policies P4, P5, P7 and P8.

HAZ-NH-P3

7.3 Regarding Waka Kotahi further submission to P3, P3 states as notified:

HAZ-NH-P3 – New activities

Once the level of natural hazard risk associated with an activity has been determined in accordance with HAZ–NH–P2, manage new activities to achieve the following outcomes:

- (1) when the natural hazard risk is significant, the activity is avoided,*
- (2) when the natural hazard risk is tolerable, manage the level of risk so that it does not become significant, and*
- (3) when the natural hazard risk is acceptable, maintain the level of risk.*

7.4 I note the Section 42a report has rejected the Transpower NZ Ltd and Aurora Energy Ltd submission to exclude nationally significant infrastructure from this policy on the basis of a new activity assessed against APP6 and being identified as being located in an area of significant risk from Natural Hazards it would be unlikely go ahead. I would agree with that conclusion for discrete structures or activities, however for networks like State highways, a new section of road will have to join with the existing network and therefore has limited location options. As a result, there may be times where a section of road may have to be in an area of significant natural hazard risk (e.g., SH1 Kilmog landslides).

7.5 As a result, I consider nationally significant infrastructure, such as State highways should be exempt, and suggest that HAZ-NH-P3 is modified as follows (or modified to achieve a similar outcome):

HAZ-NH-P3 – New activities

*Once the level of natural hazard risk associated with an activity has been determined in accordance with HAZ-NH-P2, **except for nationally significant infrastructure**, manage new activities to achieve the following outcomes:*

(1) when the natural hazard risk is significant, the activity is avoided,

(2) when the natural hazard risk is tolerable, manage the level of risk so that it does not ~~become significant~~ exceed tolerable, and

(3) when the natural hazard risk is acceptable, maintain the level of risk.

HAZ-NH-P6

7.6 Waka Kotahi further submission to P6, P6 states as notified:

HAZ-NH-P6 – Protecting features and systems that provide hazard mitigation:

Protect natural or modified features and systems that contribute to mitigating the effects of natural hazards and climate change.

7.7 I agree with the DCC submission point and question how this policy will operate alongside the infrastructure provisions of the pORPS.

7.8 The Section 42A report rejects the DCC submission based on the view that P6 needs to be read in conjunction with the rest of the plan that provides for infrastructure

7.9 The word “protecting” is not defined in the plan. The Collins Online Dictionary defines protect as:

To protect someone or something means to prevent them from being harmed or damaged.

7.10 I note that the infrastructure provisions do not address the matters within P6. In particular ET-INF-P13 deals with locating and managing effects of infrastructure and does not include provisions to protect natural or modified features providing mitigation from natural hazards and climate change. Hence P6 will stand alone as a matter that infrastructure activities will be required to be assessed against, and the definition of the word “protect” gives this policy a high threshold to meet if infrastructure has to locate in areas where these features and systems may be affected.

7.11 This results in a similar scenario as discussed in my evidence above to *HAZ-NH-P3*. I therefore suggest that P6 is modified to recognise that nationally significant infrastructure may have no alternative but to locate in areas affecting natural or modified features that provide mitigation from natural hazards and climate change. This may lead to these areas being modified and as a result, although being managed to minimise adverse effects where possible, these effects cannot be avoided, remedied or mitigated in all circumstances. I therefore suggest P6 is modified as follows (or modified to some other relief to achieve a similar outcome):

7.12 *HAZ-NH-P6 – Protecting features and systems that provide hazard mitigation*

7.13 *Protect natural or modified features and systems that contribute to mitigating the effects of natural hazards and climate change, **except where nationally significant infrastructure has a functional or operational need to locate in these areas and the risk is appropriately managed.***

7.14 **Conclusions**

7.15 Waka Kotahi is satisfied that their submission points to HAZ-NH-P4, P5, P7, P8 and P9 have been addressed by the Section 42a report and supplementary evidence.

7.16 Waka Kotahi seeks to modify HAZ-NH-P3 new activities, to include the words (or something similar to achieve a similar outcome) “, ***except for nationally significant infrastructure***” within this policy to recognise that State highways and other nationally significant infrastructure may have little choice but to locate in areas of natural hazard risk.

7.17 Waka Kotahi also seek to HAZ-NH- P6 Protecting features and systems that provide hazard mitigation, to add the following to P6 (or something similar to achieve a similar outcome)

except where nationally significant infrastructure that has a functional or operational need to locate in these areas and the risk is appropriately managed.

Julie McMinn

23 November 2022