

**SUBMISSION ON THE FRESHWATER PLANNING INSTRUMENT PARTS OF THE
PROPOSED OTAGO REGIONAL POLICY STATEMENT 2021 PURSUANT TO
CLAUSE 6 OF THE FIRST SCHEDULE OF THE RESOURCE MANAGEMENT ACT
1991**

To: Otago Regional Council
70 Stafford Street
Dunedin
Attention: ORC Policy Team

By E-Mail only: fpisubmission@orc.govt.nz

Submitter: Z Energy Limited¹
PO Box 2091
WELLINGTON 6140

BP Oil NZ Limited
PO Box 99 873
AUCKLAND 1149

Mobil Oil NZ Limited
PO Box 1709
AUCKLAND 1140

Hereafter, collectively referred to as the Fuel Companies

Address for Service: 4Sight Consulting Limited
201 Victoria Street West
Auckland Central
PO Box 911 310, Victoria Street West
AUCKLAND 1142

Attention: Mark Laurenson
Phone: 021 0868 8135
Email: markl@4sight.co.nz

¹ On behalf of the wider Z group, including the Z Energy and Caltex operations in New Zealand.

INTRODUCTION

- 1) Z Energy Limited, BP Oil New Zealand Limited, and Mobil Oil New Zealand Limited (*the Fuel Companies*) receive, store and distribute refined petroleum products. The core business of the Fuel Companies is the operation and management of retail fuel networks, commercial refuelling facilities and bulk storage (*terminal*) facilities. The Fuel Companies also supply petroleum products to individually owned businesses.
- 2) The Dunedin Port provides the sole point of entry for ships carrying bulk petroleum products into the Otago Region. There are three existing bulk fuel storage terminals at the Port:
 - Z Energy 2015 Limited (previously Chevron New Zealand), 203 Fryatt Street;
 - Z Energy Limited, 9-25 Wickliffe Street; and
 - BP Oil New Zealand Limited, Parry Street.
- 3) The terminals provide storage for approximately 45 million litres of bulk fuel, comprising petrol (95 and 91 octane), diesel, light fuel oil, and jet fuel. Fuel is supplied to the terminals via ship, with approximately 30 shipments delivered each year. Fuel is piped from the ships to storage at the terminals via wharflines.
- 4) Distribution of fuel from the terminals, except for bunkering of ships with light fuel oil (again via wharflines), is provided by heavy goods vehicles. These vehicles primarily serve the Otago region, however, fuel is also transported beyond the region. For instance, the terminals provide supplies into Canterbury and Southland in the event of shortages at the Bluff and Timaru terminals (and vice versa). The terminals also provide all jet fuel to Invercargill Airport (there is no jet fuel storage at Bluff), as well as Queenstown and Dunedin Airports. A special winter blend of diesel is also supplied from Dunedin into South Canterbury.
- 5) In terms of the freshwater components of the proposed Otago Regional Policy Statement (*ORPS*), the Fuel Companies' interests relate to the following core activities:
 - Discharges of stormwater and operational waters from petroleum industry sites managed in accordance with the Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand (MfE, 1998, *the Guidelines*);
 - Disturbance of contaminated soils;
 - Passive discharges from legacy contaminated land; and
 - Groundwater takes and discharges for temporary construction dewatering associated with the installation of underground petroleum storage systems
- 6) This submission on the ORPS as most relevant to those matters.

THE SPECIFIC PROVISIONS OF THE PROPOSED ORPS THAT THE FUEL COMPANIES' SUBMISSION RELATES TO ARE SUMMARISED AS FOLLOWS:

- 7) The specific provisions submitted on, the rationale for the Fuel Companies' submission on each of these matters, and the relief sought is contained in the attached table. Changes sought to the provisions are shown by deletion in ~~striketrough~~ and addition in underline. The Fuel Companies support alternative relief that achieves the same outcomes.
- 8) In addition to the specific outcomes and relief sought, the following general relief is sought:
 - a) Achieve the following:
 - i. The purpose and principles of the Resource Management Act 1991 (*RMA*) and consistency with the relevant provisions in Sections 6 - 8 RMA;
 - ii. Give effect to National Policy Statements, Environmental Standards and Regulations, including the National Policy Statement for Freshwater Management (*NPSFM*) and the New Zealand Coastal Policy Statement (*NZCPS*);

- iii. Assist the Council to carry out its functions under Section 30 RMA;
 - iv. Meet the requirements of the statutory tests in section 32 of the RMA; and
 - v. Avoid, remedy or mitigate any relevant and identified environmental effects;
- b) Make any alternative or consequential relief as required to give effect to this submission, including any consequential relief required in any other sections of the ORPS that are not specifically subject of this submission but where consequential changes are required to ensure a consistent approach is taken throughout the document; and
- c) Any other relief required to give effect to the issues raised in this submission.

1.1.1 THE FUEL COMPANIES WISH TO BE HEARD IN SUPPORT OF THIS SUBMISSION

1.1.2 IF OTHERS MAKE A SIMILAR SUBMISSION, THE FUEL COMPANIES MAY BE PREPARED TO CONSIDER PRESENTING A JOINT CASE AT ANY HEARING.

1.1.3 THE FUEL COMPANIES COULD NOT GAIN AN ADVANTAGE IN TRADE COMPETITION THROUGH THIS SUBMISSION.

1.1.4 THE FUEL COMPANIES ARE DIRECTLY AFFECTED BY AN EFFECT OF THE SUBJECT MATTER OF THAT SUBMISSION THAT -

- I. ADVERSELY AFFECTS THE ENVIRONMENT; AND**
- II. DOES NOT RELATE TO TRADE COMPETITION OR THE EFFECTS OF TRADE COMPETITION.**

Signed on and behalf of Z Energy Limited, BP Oil New Zealand Limited, and Mobil Oil New Zealand Limited



Gavin McCullagh

Principal Planner

29 November 2022

| Notified Provision | Support/ Oppose | Rationale | Relief Sought (alternative relief may achieve the same outcome) |
|---|--------------------|---|---|
| Part 1 – Introduction and General Provisions | | | |
| Definitions | | | |
| <p>Specified infrastructure has the same meaning as in clause 3.21 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>means any of the following:</p> <ul style="list-style-type: none"> (a) infrastructure that delivers a service operated by a lifeline utility (as defined in the Civil Defence Emergency Management Act 2002), (b) regionally significant infrastructure identified as such in a regional policy statement or <i>regional plan</i>, (c) any public flood control, flood protection, or drainage works carried out: <ul style="list-style-type: none"> (i) by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1951, or (ii) for the purpose of drainage by drainage districts under the Land Drainage Act 1908 </div> | Support | The definition of specified infrastructure encompasses the Fuel Companies’ bulk infrastructure and is support. | Retain as notified |
| Part 3 – Domains and Topics | | | |
| Land and fresh water | | | |
| <p>LF-FW-P7 Fresh water Environmental outcomes, attribute states (including target attribute states) and limits ensure that:</p> <ol style="list-style-type: none"> 1. the health and well-being of water bodies is maintained or, if degraded, improved, 2. the habitats of indigenous species associated with water bodies are protected, including by providing for fish passage, 3. specified rivers and lakes are suitable for primary contact within the following timeframes: <ul style="list-style-type: none"> a. by 2030, 90% of rivers and 98% of lakes, and b. by 2040, 95% of rivers and 100% of lakes, and 4. mahika kai and drinking water are safe for human consumption, 5. existing over-allocation is phased out and future over-allocation is avoided, and 6. freshwater is allocated within environmental limits and used efficiently. | Oppose in part | The intent of the policy is supported but the strict avoidance of over-allocation (in terms of quantity) in all circumstances at clause 5 is opposed. This reflects the potential need for essential temporary construction dewatering takes, for instance to facilitate the safe and timely replacement/installation of underground infrastructure, can be required in over allocated catchments and will not necessarily be considered non consumptive, for instance where dewatering water is discharged to a reticulated stormwater or wastewater system. If this policy is retained as drafted, there is a risk that any such takes will be prohibited in over allocated catchments, despite not affecting the stated outcomes and limits. | <p>Amend the policy or include a new policy to ensure that the avoidance direction does not lead to prohibited pathways for essential temporary construction dewatering takes necessary to facilitate operation, maintenance, upgrade, and development of infrastructure in over allocated catchments.</p> <p>Retain the balance of the policy as notified.</p> |
| <p>LF-FW-P15 – Stormwater and wastewater discharges Minimise the adverse effects of direct and indirect discharges of stormwater and wastewater to fresh water by:</p> <ol style="list-style-type: none"> 1. except as required by LF–VM–O2 and LF–VM–O4, preferring discharges of wastewater to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water, and 2. requiring: <ul style="list-style-type: none"> a. all sewage, industrial or trade waste to be discharged into a reticulated wastewater system, where one is available, b. all stormwater to be discharged into a reticulated system, where one is available, c. implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring for reticulated stormwater and wastewater systems, d. on-site wastewater systems to be designed and operated in accordance with best practice standards, e. stormwater and wastewater discharges to meet any applicable water quality standards set for FMUs and/or rohe, and f. the use of water sensitive urban design techniques to avoid or mitigate the potential adverse effects of contaminants on receiving water bodies from the subdivision, use or development of land, wherever practicable, and 3. promoting the reticulation of stormwater and wastewater in urban areas. | Support in part | <p>The intent of clause 2(b) is supported but the Fuel Companies have experienced instances where network operators have not been accepting of discharges of stormwater from industrial or trade premises to the reticulated stormwater network and have insisted they be directed to wastewater, despite them being in accordance with good practice and permitted under the relevant regional plan. The Fuel Companies seek to ensure that the role of industry good practice is recognised (in the case of the Fuel Companies that is provided by the Environmental Guidelines for Water Discharges from Petroleum Industry Sites in NZ (MFE, 1998)).</p> <p>Control of contaminants at source, is an effective and efficient means of minimising the potential for contaminants to arrive in the first instance. For instance, controls on the use of zinc and copper in metal roofs, car tyres and brake linings. This should be promoted through the RPS.</p> | <p>Add the following to promote source control and recognise the role of industry good practice:</p> <p><u>4. promoting awareness and actions to reduce contaminant discharges through source control</u></p> <p><u>5. recognising the role of relevant industry guidelines.</u></p> <p>Retain the balance of the policy as notified.</p> |
| LF-FW-M6 – Regional Plans | Support in part | Control of contaminants at source, is an effective and efficient means of minimising the potential for generation of contaminants in the first instance. | Add the following to LF-FW-M6 |

| | | | |
|--|------------------------|--|---|
| <p>Otago Regional Council must publicly notify a Land and Water Regional Plan no later than 31 December 2023 and, after it is made operative, maintain that regional plan to:</p> <ol style="list-style-type: none"> 1. identify the compulsory and, if relevant, other values for each Freshwater Management Unit, 2. state environmental outcomes as objectives in accordance with clause 3.9 of the NPSFM, 3. identify water bodies that are over-allocated in terms of either their water quality or quantity, 4. include environmental flow and level regimes for water bodies (including groundwater) that give effect to Te Mana o te Wai and provide for: <ol style="list-style-type: none"> a. the behaviours of the water body including a base flow or level that provides for variability, b. healthy and resilient mahika kai, c. the needs of indigenous fauna, including taoka species, and aquatic species associated with the water body, d. the hydrological connection with other water bodies, estuaries and coastal margins, e. the traditional and contemporary relationship of Kāi Tahu to the water body, and f. community drinking water supplies, and 5. include limits on resource use that: <ol style="list-style-type: none"> a. differentiate between types of uses, including drinking water, and social, cultural and economic uses, in order to provide long-term certainty in relation to those uses of available water, b. for water bodies that have been identified as over-allocated, provide methods and timeframes for phasing out that over-allocation, c. control the effects of existing and potential future development on the ability of the water body to meet, or continue to meet, environmental outcomes, d. manage the adverse effects on water bodies that can arise from the use and development of land, and 6. provide for the off-stream storage of surface water where storage will: <ol style="list-style-type: none"> a. support Te Mana o te Wai, b. give effect to the objectives and policies of the LF chapter of this RPS, and c. not prevent a surface water body from achieving identified environmental outcomes and remaining within any limits on resource use, and 7. identify and manage natural wetlands in accordance with LF-FW-P7, LF-FW-P8 and LF-FW-P9 while recognising that some activities in and around natural wetlands are managed under the NESF, and 8. manage the adverse effects of stormwater and wastewater in accordance with LF-FW-P15. | | <p>For instance controls on the use of zinc and copper in metal roofs, car tyres and brake linings. This should be promoted through the RPS to achieve the objectives and polices, for instance LF-FW-P7.</p> | <p><u>Promote awareness and actions to reduce contaminant discharges through source control</u></p> <p>Retain the balance of the method as notified.</p> |
| <p>LF-FW-M7 – District plans</p> <p>Territorial authorities must prepare or amend and maintain their district plans no later than 31 December 2026 to:</p> <ol style="list-style-type: none"> 1. map outstanding water bodies and identify their outstanding and significant values using the information gathered by Otago Regional Council in LF-FW-M5, and 2. include provisions to avoid the adverse effects of activities on the significant and outstanding values of outstanding water bodies, 3. require, wherever practicable, the adoption of water sensitive urban design techniques when managing the subdivision, use or development of land, and 4. reduce the adverse effects of stormwater discharges by managing the subdivision, use and development of land to: <ol style="list-style-type: none"> a. minimise the peak volume of stormwater needing off-site disposal and the load of contaminants carried by it, b. minimise adverse effects on fresh water and coastal water as the ultimate receiving environments, and the capacity of the stormwater network, c. encourage on-site storage of rainfall to detain peak stormwater flows, and d. promote the use of permeable surfaces. | <p>Support in part</p> | <p>Further to the submission in response to LF-FW-P15, the Fuel Companies have experienced instances of network operators insisting stormwater discharges permitted under the regional plan be discharged to wastewater. This is not effects based, does not promote sustainable management and is contrary to the intention to reduce wet weather overflows from the wastewater system.</p> | <p>Direct network operators to accept discharges to networks, where they are permitted under the regional plan or compliant with a relevant discharge consent.</p> <p>Retain the balance of the method as notified.</p> |
| <p>LF-LS-P21 – Land use and fresh water</p> <p>Achieve the improvement or maintenance of fresh water quantity or quality to meet environmental outcomes set for Freshwater Management Units and/or rohe by:</p> <ol style="list-style-type: none"> 1. reducing direct and indirect discharges of contaminants to water from the use and development of land, and | <p>Support</p> | | <p>Retain as notified</p> |

| | | | |
|--|--|--|--|
| 2. managing land uses that may have adverse effects on the flow of water in surface water bodies or the recharge of groundwater. | | | |
|--|--|--|--|