

## **Before the Hearings Panel in Dunedin**

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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 305

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**Supplementary Statement of Evidence Sarah Lai Kwun Ho for Waka Kotahi  
NZ Transport Agency on Coastal Environment (Planning)**

Dated 13 March 2023

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## 1 Summary of Evidence

- 1.1 This statement of evidence puts in writing an issue I raised orally in the Coastal Hearing on behalf of Waka Kotahi on 2 March 2023. For clarity I am providing this in writing as it was not addressed in my written primary statement of evidence.
- 1.2 This issue relates to CE-P5 *Coastal Indigenous Biodiversity*. Criteria (1)(g)-(h) of Policy CE-P5 require avoidance of all adverse effects on significant natural areas (SNA) and indigenous species and ecosystems identified as taoka in the coastal environment.
- 1.3 This policy effectively prohibits infrastructure from locating in coastal environments where there is an identified SNA or species and ecosystem identified as taoka, through the use of the absolute term 'avoid' and in the absence of any prevailing objectives or policies that recognise and provide for significant infrastructure.

## 2 Qualifications and Experience

- 2.1 My full name is Sarah Lai Kwun Ho. I have the qualifications and experience described in section 2 of my primary statements of evidence for Integrated Management and the Coastal Environment dated 23 November 2022.

## 3 Scope of evidence

- 3.1 This supplementary evidence provides a written record of my oral comments regarding the implications of CE – P5(1)(g)- (h) on infrastructure.

## 4 CE-P5 Coastal Indigenous Biodiversity

- 4.1 Waka Kotahi made an original submission to support in part CE-P5, to ensure that the functional and operational needs of infrastructure are recognised and provided for. Council's reporting officers for the Coastal Environment<sup>1</sup> and Ecosystems and Indigenous Biodiversity<sup>2</sup> chapters have since recommended inclusion of (1)(g) and (h) as follows:

### ***CE-P5 – Coastal indigenous biodiversity***

*Protect indigenous biodiversity in the coastal environment by:*

*(1) identifying and avoiding adverse effects on the following ecosystems, vegetation types and areas:*

...

*(g) significant natural areas identified in accordance with APP2, and<sup>3</sup>*

*(h) indigenous species and ecosystems identified as taoka in accordance with ECO-M3, and<sup>4</sup>*

<sup>1</sup> Pg 70 Section 42A Hearing Report Chapter 8 CE Coastal Environment Andrew MacLennan

<sup>2</sup> Pg 5 Supplementary Evidence of Melanie Kate Hardiman ECO Ecosystems and Indigenous Biodiversity

<sup>3</sup> 00137.005 DoC, 00120.042 Yellow-eyed Penguin Society

<sup>4</sup> 00226.223 Kai Tahu

- 4.2 While I support SNAs and ecosystems and species that are identified as Taoka being protected, there are circumstances, such as the provision of infrastructure, where adverse effects cannot be avoided. The issue in this case is that the inclusion of these criteria within an absolute 'avoid' context creates a fatal flaw for major infrastructure. Linear infrastructure, such as transport networks, often have no other option but to traverse through these sensitive environments. This policy, therefore, does not ensure that the functional or operational needs of infrastructure are recognised or provided for.
- 4.3 The criteria in APP2 to identify SNAs is significantly broader than the areas listed under CE-P5 (1)(a)-(f) and, by their very nature, coastal environments are predominantly natural and untouched. Clauses (g) and (h) are therefore likely to capture larger areas of the coastal environment than the rest of policy CE-P5 would. In my experience seeking consents for Waka Kotahi, Policy 11 of the NZCPS is already a difficult bar to meet and the addition of criteria CE-P5(1)(g)-(h) would further limit the ability to provide for infrastructure within what is already a highly constrained environment. Clause (g) and (h) are not necessary in order to implement Policy 11 of the NZCPS. In my view they undermine the ability of the RPS to implement Objective 6 and Policy 6 of the NZCPS.
- 4.4 To give a scenario of the impact of the CE-P5(1)(g)-(h) inclusion, if the areas surrounding State highway 1 on Kaitaki Strait or Blueskin Bay were to be identified as a SNA, Waka Kotahi would be constrained to only undertake works within the existing carriageway, as any works outside of that would have an adverse effect on the SNA. This means that any works that may include road widening for safety improvements, cycleways or walkways, any resilience needed to adapt to climate change, the replacement of culverts or diversion of stormwater etc. in the coastal environment would not be enabled, as adverse effects on the SNA could not be avoided.
- 4.5 I consider it inappropriate to include additional criteria CE-P5 (1)(g)-(h) recognising the impracticalities of doing so, and some flexibility is warranted. The ECO- Ecosystems and Indigenous Biodiversity Chapter addresses all issues associated with the identification and protection of SNAs and indigenous species and ecosystems identified as taoka, and an effects management hierarchy applies. I am uncertain as to why a higher test for SNAs and indigenous species and ecosystems identified as taoka applies in the coastal environment than elsewhere across the region, but I consider it appropriate that these are dealt with consistently.
- 4.6 To address the issues raised in this statement, I therefore recommend deleting CE P5(1)(g)-(h) within the Coastal Chapter, and for ECO-P3, ECO-P4, ECO-P5 and ECO-P6 to apply within the coastal environment. Consequently, this would result in deleting the words "~~(outside the coastal environment)~~" from ECO-P5 – *Existing activities in significant*

*natural areas* and deleting ECO-P7 – *Coastal indigenous biodiversity* in its entirety as per below.

~~*Indigenous biodiversity and taaka species and ecosystems in the coastal environment are managed by CE-P5 in addition to all objectives and policies of the ECO chapter except ECO-P3, ECO-P4, ECO-P5 and ECO-P6.*~~

- 4.7 CE-P1 *Links with other chapters* already cross references to the Ecosystems and indigenous biodiversity chapter and I do not think that it is necessary for the ECO Chapter to refer back to the coastal chapter as they are not in conflict.
- 4.8 In conclusion, the inclusion of CE-P5(1)(g) and (h) criteria within an absolute “avoid” context places additional risk on the operational and functional need for infrastructure to be located in the coastal environment. In addition to recognising and providing for infrastructure through IM-05 *Regionally Significant Infrastructure* and CE-05 *Activities in the Coastal Environment*, in my view all SNAs and indigenous species identified as taaka should be managed under the ECO Chapter.

**Sarah Lai Kwun Ho**

13 March 2023