

Under the Resource Management Act 1991 (**RMA**)

In the matter of The Otago Regional Council Proposed Otago Regional Policy Statement 2021

**Submission by Dunedin City Council**

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**Evidence of Katie Emma Sunley James for Dunedin City Council**

18 April 2023

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## **Qualifications and experience**

- 1 My name is **Katie Emma Sunley James**. I am a policy planner at Dunedin City Council (**Council** or **DCC**).
- 2 I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023. This evidence has been prepared in accordance with it and I agree to comply with it. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
- 3 I have been employed by Dunedin City Council as a policy planner for seven years. During this time, I have primarily worked on assessing submissions, preparing and presenting s42A reports at hearings, and on appeal resolution. I previously worked in central government for five years as a policy adviser in a range of resource management policy areas.
- 4 I have a BSc (Hons) in Zoology, a Masters in Regional and Resource Planning (with Distinction) and PhD from the University of Otago.

## **Code of conduct**

- 5 I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023. This evidence has been prepared in accordance with it and I agree to comply with it. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

## **Scope of evidence**

- 6 Mr Freeland (Principal Policy Planner, DCC) submitted on behalf of the DCC.
- 7 I agree with the evidence submitted by Mr Freeland in relation to the Ecosystems and indigenous biodiversity topic in his evidence dated 28 November 2022. My evidence expands on four of these points.

## **ECO-O2: Definition of occupancy**

- 8 In relation to ECO-O2, Mr Freeland in para 29 of his evidence submits that the definition of 'occupancy' needs greater clarity. The proposed definition is: "means the number of sites occupied in Otago". I agree with Mr Freeland that it is unclear what the word 'site' refers to in this context. Mr Freeland suggested an alternative definition, which reads:

*Means in relation to measuring indigenous biodiversity, the number of units per area across a species range that is occupied by the species.*

- 9 I have also sought advice from Zoe Lunniss, Biodiversity Adviser at the DCC.
- 10 I consider it helpful to include the qualifier ‘in relation to measuring indigenous biodiversity’ as recommended by Mr Freeland. I recommend slightly different wording for the second part of the definition, as on further consideration, the use of ‘across a species range’ may be unclear. A suggested alternative would be to refer to ‘the number of units per area occupied by a species or taxa’. In this way the definition signals the methodology used to measure occupancy without it being necessary to define ‘site’:

**Occupancy**

Means in relation to measuring indigenous biodiversity, the number of units per area occupied by a species or taxa.

**APP5 and ECO-P9 – Wilding species**

- 11 In relation to APP5 – Species prone to wilding conifer spread, and ECO-P9 Wilding conifers, the DCC submitted on APP5 (previously APP6) requesting a review of the species listed in relation to ecological evidence specific to Otago. In Mr Freeland’s evidence on this topic (para 51-54), he notes that there are a number of tree species not listed in APP5 which are managed through the 2GP as they are prone to wilding; he also asks for a reconsideration of whether it is necessary for regional and district plans to control species that are managed under the Biosecurity Act 1993, such as *Pinus contorta*. In relation to the latter, Mr Freeland’s evidence includes a Note to Plan Users from the 2GP which sets out other requirements outside the plan, by way of an example:

**Note 10.3.4A - Other requirements outside of the District Plan**

1. A range of species including, for example, Lodgepole/contorta pine (*Pinus contorta*), Grey willow (*Salix cinerea*), Crack willow (*Salix fragilis*) and *Cotoneaster simonsii*, are classified as “unwanted organisms” under the Biosecurity Act 1993. As a result, these species are subject to strict controls under sections 52 and 53 of that Act. Under section 52, no person may communicate, release or otherwise spread any unwanted organism (except: as part of a pest management plan; in an emergency, as provided for in section 150 of the Act; for a scientific purpose authorised by the Minister for Primary Industries; or if an exception is made by a chief technical officer appointed under the Act). Under section 53, owners of unwanted organisms must not cause or permit the sale, propagation, breeding, or multiplication of that organism, except where an exception is made by a chief technical officer appointed under the Act.

- 12 In his evidence, Mr Freeland proposes amending APP5 to include boxthorn, hawthorn, rowan and sycamore and to delete *Pinus contorta* and recommends consequential changes to Policy ECO-P9 to replace the word

'conifers' with 'trees' to provide for non-conifer species. He also proposes adding 'small woodlots' as well as 'permanent forests as other forms of planting where wilding species should be avoided. This would support the management of wilding species for planting shelterbelts and small woodlots as well as forestry (which is defined in the 2GP as including plantation and permanent forests).

13 The 2GP includes boxthorn, hawthorn, rowan and sycamore along with six conifer species in Rule 10.3.4 Tree Species. Forestry and shelterbelts and small woodlots must not include any of these species. My understanding is that the trees included in Rule 10.3.4 were based on Dr Kelvin Lloyd's evidence for the 2GP Natural Environment Hearing, specifically in relation to the Dunedin district; I understand also that there will be other tree species that have a higher invasive risk in other parts of the region.

14 I am not aware of any specific response to DCC's submission in relation to APP5. However, the s42A author's brief of supplementary evidence for the ECO chapter discusses the proposed use of 'trees' instead of conifers along with whether ECO-P9 should be amended to include taoka ecosystems in paras 27-28:

"Since the pre-hearing discussions, I have made a number of attempts to redraft ECO-P9 to address these two matters. However, it is not possible to include ecosystems that are taoka because the provision references activities from the National Environmental Standards for Plantation Forestry (NES-PF). Meaning ECO-P9 is restricted by the NES-PF, which does not permit more stringent provisions in policy statements and plans to protect ecosystems that are taoka.

I tried to resolve this issue by removing all NES-PF Reg 5 activity terms from the provision. However, the policy still contained the term "wilding conifers" which is defined by the NES-PF and so the NES-PF still applies, meaning it is inconsistent with the NES-PF to include taoka ecosystems. I also included the term "wilding trees" to the provision and defined the phrase, but legal advice is that the definition I provided is not permitted by the NES-PF. For these reasons I recommend no changes to the s42A recommended version of ECO-P9."

15 Without having seen the alternative drafting for the policy or new definition for 'wilding trees', or the legal advice referred to, I am unclear on the reason for not recommending broadening the policy to the management of 'wilding trees'. This term would encompass wilding conifers as well as other trees. I also note that the s42A version of ECO-09 has been broadened to cover permanent forests, which are not themselves currently subject to the NES-PF.

16 I note that in para 349 of the original s42A report, in relation to submissions from other submitters, the author states that:

“The purpose of ECO-P9 is to protect Otago’s indigenous biodiversity from wilding conifers, not the full suite of invasive tree species. Therefore, I do not recommend accepting Pomahaka Water Care Group, Lloyd McCall and DOCs submissions on this matter.”

- 17 I consider that it is desirable for the RPS to contain policy direction to manage the effects of a broader range of wilding tree species on indigenous biodiversity and to add the tree species listed above to APP5. I also support Mr Freeland’s suggestion of adding ‘small woodlots’ or similar to ECO-P9 in order to broaden the policy to the management of smaller areas of tree planting including shelterbelts .

***APP2 – Significance criteria for indigenous biodiversity***

- 18 Mr Freeland’s evidence supports the amendments recommended to APP2 – Significance criteria for indigenous biodiversity in the s42A report. I note that expert conferencing involving ecological experts has since taken place to discuss the criteria. DCC’s Biodiversity Advisor Zoe Lunniss attended the conferencing on behalf of the DCC and her views on the issues discussed are recorded in the Joint Witness Statement.

***APP4 – Criteria for biodiversity compensation***

- 19 Mr Freeland notes in his evidence (para 49) that the s42A recommendation to accept the DCC submission was not carried through to drafting. His proposed solution, which I am in agreement with, is to amend as follows:

(d) the positive biodiversity outcomes of the compensation are ~~enduring~~ maintained in perpetuity and are commensurate with the biodiversity values lost.



Katie Emma Sunley James

18 April 2023