

Before a Hearings Panel  
Appointed by the Otago Regional Council

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*under:* the Resource Management Act 1991

*in the matter of:* submissions and further submissions on the Proposed  
Otago Regional Policy Statement (non-freshwater parts)

*and:* **Sanford Limited**

*Submitter #122*

## Summary Statement of Adrian Low

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Dated: 8 May 2023

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## **INTRODUCTION**

- 1 My full name is Adrian David Low.
- 2 My qualifications and experience are set out in paragraphs 2 - 6 of my Evidence in Chief (*EIC*) dated 23 November 2022.
- 3 I repeat the confirmation given at paragraph 7 of my *EIC* that I have read the Code of Conduct for Expert Witnesses and agree to comply with it.

## **SUMMARY**

- 4 Sanford made submissions on provisions in a range of chapters.<sup>1</sup> However, its primary interests in the Proposed Otago Regional Policy Statement (*pORPS*) relate to how it will impact on its proposed offshore salmon farming operations. In that respect it has a very significant and material interest in the *pORPS* provisions which address Otago's coastal environment.
- 5 In my *EIC* I expressed the view that the 31 October 2022 version of the *pORPS* (**31 October Version**) appropriately addressed the planning issues raised in the relevant Sanford submissions, and no additional changes to those provisions are necessary, except for the proposed versions of CE-P5 and APP2.

## **POLICY CE-P5 AND APP2**

- 6 Clauses (a) and (b) of Policy CE-P5 in the Notified Version of the *pORPS* replicate the two-tiered policy direction in Policy 11 of the New Zealand Coastal Policy Statement (*NZCPS*), and Sanford's submission sought the Notified Version of Policy CE-P5 be retained.
- 7 Sanford's submission also expressed concern that the Significant Natural Area (*SNA*) criteria in APP2 were overly broad. It sought they be amended to ensure the significance criteria for indigenous biodiversity are specific and targeted to avoid the inclusion of inappropriate areas within *SNA*.
- 8 In response to other submissions in the 31 October Version the Reporting Officers further broadened the significance criteria for classifying *SNA*s in APP2, and inserted new clauses in Policy CE-P5 which direct that all effects be avoided on
  - 8.1 *SNA*s in the coastal environment; and
  - 8.2 Indigenous species and ecosystems identified as taoka.

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<sup>1</sup> Chapter 3 Definitions; Chapter 5 Significant Resource Management Issues for the Region; Chapter 6 Integrated Management; Chapter 8 Coastal Environment; Chapter 10 Ecosystems and indigenous biodiversity; Chapter 12 Hazards and risks; Chapter 15 Urban form and development.

- 9 These changes go significantly further than I consider necessary to address the submission points cited by the Officer as the basis for the proposed changes. They also cut across the directive tiered approach prescribed in Policy 11 of the NZCPS, because the areas covered by the Reporting Officers' proposed SNA criteria would include areas which are covered by Policy 11(a) and Policy 11(b) criteria, as well as other areas which would not be covered by Policy 11 at all.
- 10 The costs associated with the 31 October Version of Policy CE-P5 extending a level of protection to indigenous biodiversity in Otago's coastal marine area significantly beyond that contained in Policy 11 of the NZCPS provisions, have not been properly quantified. But they could be substantial. The benefits of the proposal are also uncertain and potentially limited, given the rarest and most threatened indigenous biodiversity values in Otago's coastal marine area would already be protected by the Policy 11 approach.
- 11 In Appendix 1 of my EIC I set out the changes I considered should be made to Policy CE-P5 to address the matters I raised.
- 12 Reporting Officer Mr Maclellan presented an alternative and simpler set of changes to Policy CE-P5 in Appendix 1 of his speaking notes.<sup>2</sup> I have reviewed those changes and they address the concerns with Policy CE-P5 I expressed in my EIC.
- 13 With respect to paragraph APP2, I made some preliminary suggestions in Appendix 1 of my EIC for how the criteria in APP2 could be amended based on the evidence of Ms Giles, whilst noting that the exercise would benefit from collaboration involving a variety of experts from council and stakeholders.
- 14 That has happened and is addressed in the evidence of Ms Giles.

### **POLICY CE-P11**

- 15 Policy CE-P11 is the RPS provision which addresses aquaculture. The notified version directly mirrors Policy 8 of the NZCPS. I provided a statement of rebuttal evidence dated 14 December 2022 to respond to matters raised in the planning evidence of Mr Brass and Mr Bathgate who sought changes to this provision. I understood their key concerns to be that the policy needs to provide more direction on what places may be appropriate or inappropriate for aquaculture, and that it is presumptive of aquaculture respectively. I disagree on both counts.
- 16 Policy CE-P11 is not drafted such that it should be read in isolation, and the other RPS provisions which address how effects on other values are to be managed would be relevant when considering

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<sup>2</sup> Opening Statement of Andrew Cameron Maclellan: Ce – Coastal Environment, Paragraphs 32 – 34 and Appendix 1.

where and how aquaculture should be provided for in Otago. Policy CE-P11 does not suggest the requirements of those other provisions, which include many directive policies, be overridden. In my view, this is not a collection of provisions which is 'presumptive of aquaculture' and is an appropriate approach given:

- 16.1 The opportunity offshore aquaculture presents in Otago;
  - 16.2 The explicit direction in the NZCPS that aquaculture be 'provided for'; and
  - 16.3 The absence of any major environmental issues associated with aquaculture in the region which mean its effects on the values covered by the other RPS provisions (biodiversity, cultural values etc) need to be controlled in a more stringent or specific manner than contemplated in those provisions.
- 17 In my rebuttal evidence I expressed the view that the notified version of Policy CE-P11 should be retained.
- 18 Mr Maclennan,<sup>3</sup> has recommended the following additional clause be inserted because biosecurity is not specifically addressed in any other policy:
- (1A) *risks to biosecurity from disease or introduced pest species;*
- 19 Biosecurity risks are an important consideration for any aquaculture development, and they are routinely addressed during resource consent applications, including Project East. In that respect the inclusion of this clause would have no impact on that project. However, I cannot see why the RPS should single out aquaculture for special mention in respect of the matter. Biosecurity risks apply much more widely in Otago and in my view a consistent approach should be taken across the plan. Singling out biodiversity as a specific issue associated with aquaculture is also not something I have seen in other regional policy statement documents in New Zealand, including those for regions which contain substantial aquaculture development.<sup>4</sup>
- 20 For those reasons in my view Policy CE-P11 should be retained as notified.

**Adrian Low**

**8 May 2023**

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<sup>3</sup> Opening Statement of Andrew Cameron Maclennan: Ce – Coastal Environment, Paragraphs 47 – 49 and Appendix 1.

<sup>4</sup> See for example the Regional Policy Statements for the Southland, Canterbury, Waikato, Auckland, and Northland regions.