

**BEFORE THE HEARINGS PANEL
APPOINTED BY OTAGO REGIONAL COUNCIL**

UNDER THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Otago Regional Policy
Statement 2021 (non-Freshwater parts)

**SUPPLEMENTARY STATEMENT OF EVIDENCE OF STEPHANIE AMANDA
LOUISE STYLES
ON BEHALF OF MANAWA ENERGY LIMITED**

DATED 19 September 2023

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1.0 INTRODUCTION

- 1.1 My name is Stephanie Amanda Louise Styles. I set out my qualifications and experience, and role in this matter in paragraphs 2.1-4.3 of my primary statement of evidence dated 23 November 2022.
- 1.2 I reconfirm that I have read the Code of Conduct for expert witnesses in the Environment Court Practice Note 2023. I agree to comply with this Code. This evidence is within my area of expertise, except where I state that I am relying on the evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
- 1.3 I have reviewed the memorandum for the ORC dated 8 September 2023, and the supplementary evidence from Mr Maclennan dated 8 September 2023, relating to the implications of the National Policy Statement for Indigenous Biodiversity (NPSIB) on the provisions within the non-Freshwater parts of the proposed Otago RPS (PORPS).

2.0 Implications for the non-freshwater parts of the PORPS

- 2.1 I note that at paragraph 26 Mr Maclennan states that there “*is no specific direction on the relationship between the NPSIB and other national directions, such as the National Policy Statement for Renewable Electricity Generation (NPSREG)*,”¹.
- 2.2 In my opinion, despite not referring directly to the NPSREG, the NPSIB statement in (3) does have this effect:

*(3) Nothing in this National Policy Statement applies to the development, operation, maintenance or upgrade of renewable electricity generation assets and activities and electricity transmission network assets and activities. For the avoidance of doubt, renewable electricity generation assets and activities, and electricity transmission network assets and activities, are not “specified infrastructure” for the purposes of this National Policy Statement.*²

¹ Supplementary evidence Mr Maclennan, 8 September 2023, paragraph 26, page 7.

² National Policy Statement for Indigenous Biodiversity, 2023, clause 1.3 Application, page 5.

3.0 Effects management hierarchies and renewable electricity generation

- 3.1 In the context of my evidence on the non-freshwater parts of the PORPS, the key issue relates to how to apply effects management hierarchy approaches to renewable electricity generation (**REG**) activities that impact on indigenous biodiversity, given the direction under clause 1.3 of the NPSIB. The NPSIB has specifically excluded REG activities from the application of the NPSIB and the reason given for this approach in the NPSIB is set out in the associated Recommendations and Decisions Report stating “*it is preferable to provide certainty in the regulatory environment for renewable electricity generation and electricity transmission until the consultation process concludes and amended regulations are confirmed by Cabinet*”³. As those Recommendations outline, the approach currently being considered includes a consent pathway and effects management hierarchy for significant environmental values that differs from the one in the NPSIB.
- 3.2 I also note that the current NPSREG includes a policy that is akin to the approach now referred to as the effects management hierarchy, stating:

POLICY C2

When considering any residual environmental effects of renewable electricity generation activities that cannot be avoided, remedied or mitigated, decision-makers shall have regard to offsetting measures or environmental compensation including measures or compensation which benefit the local environment and community affected.

- 3.3 Mr Maclennan addresses this issue in paragraphs 130-139 of his supplementary evidence and proposes an additional new policy ECO-P6A to provide an effects management hierarchy specifically for REG activities and electricity transmission networks. I understand that Mr Maclennan has applied this proposed solution to try and fill a current ‘policy gap’ until amendments are made to the NPSREG and NPSET, and he has endeavoured to align with the approach being applied to other parts of the PORPS.
- 3.4 Given that the current NPSREG contains Policy C2 giving direction on how to consider effects of REG activities, I am not sure that there is currently a ‘policy gap’.

³ Recommendations and Decisions Report on the National Policy Statement for Indigenous Biodiversity, 2023, recommendation 12w), page 102. [Draft NPSIB recommendations report \(environment.govt.nz\)](https://environment.govt.nz/draft-npsib-recommendations-report)

Indeed I consider that the current NPSREG is clear on the consideration that should be applied when assessing REG activities. The policy provides for avoiding, remedying, mitigating, offsetting and compensation and thus, in my opinion, all of these five steps need to remain available when considering the effects of REG activities on indigenous biodiversity.

- 3.5 I am concerned that the policy proposed by Mr Maclennan is relatively complex, dealing with different types of activities in different areas. Neither the NPSREG nor the NPSIB differentiate between infrastructure that falls under the definitions of nationally significant infrastructure or regionally significant infrastructure, indeed the NPSREG reiterates that all REG contributes to the goal of increasing REG nationally. I have explained this in some detail in my initial brief of evidence to this panel⁴.
- 3.6 If the panel is of a mind to include a specific policy within the ECO chapter, I recommend a simplified version as follows⁵:

ECO-P6A – Renewable electricity generation and electricity transmission networks

Manage the effects of the development, operation, maintenance, and upgrade of renewable electricity generation and electricity transmission network infrastructure on indigenous biodiversity (outside water bodies and the coastal marine area) by:

- (1) ~~For infrastructure that is nationally or regionally significant infrastructure:~~
(a) ~~avoiding, as a first priority~~ where practicable, locating within significant natural areas, and*
- (2) ~~(b) Where~~ if it is not demonstrably practicable to avoid locating within a significant natural area because of the functional needs or operational needs of the infrastructure, minimise adverse effects on the values of the area, and*
- (3) ~~(c)~~ outside significant natural areas, avoiding, remedying, or mitigating more than minor adverse effects on indigenous biodiversity to the extent practicable, and*
- (4) ~~(d)~~ in all cases, ~~having~~ regard to the offsetting principles set out within APP3 or the compensation principles set out within APP4 in relation to any residual adverse effects.*

~~(2) for infrastructure not addressed in (1), managing adverse effects in accordance with ECO-P6.~~

⁴ Primary statement of evidence on FPI matters, Stephanie Styles, 28 June 2023, paragraphs 8.13 and 8.14.

⁵ I have shown this as a track changed version of Mr Maclennan's recommendation to assist the panel.

- 3.7 The draft NPSREG incorporates considerations of practicability at all levels of the proposed effects management hierarchy, so the proposed change from avoidance being a first priority is to reflect that. In my opinion the reference to “first priority” is superfluous as it is clear from the next step in the policy proposed in the ORC evidence that what determines whether to move to the next consideration is whether avoidance is “practicable” or not. This is similar to how the effects management hierarchy in the NPSFM are worded, i.e. avoid where practicable; if not practicable, minimise etc. As I’ve covered in previous evidence⁶, I also consider “demonstrably” to be unnecessary - whether or not it is practicable will always need to be demonstrated (i.e. not just asserted).
- 3.8 I note for completeness that it is also my opinion that the exception provided in the NPSIB further supports my recommendation to have a separate energy chapter in the PORPS. It will be more straightforward to adapt a standalone energy chapter (and any cross referencing in it) to give effect to updated national direction on REG that will be released in the near future, than to have to review and retrofit a suite of provisions across the RPS. I consider that having a standalone EN chapter will assist to avoid complicated cross referencing between EN, INF, ECO and LF chapters and will assist in interpretation and application of the PORPS.
- 3.9 I also note, in reference to the Freshwater Planning Instrument (FPI) parallel hearing process, that an issue was raised in relation to consistency across sections. Ms Boyd in her opening statement to the FPI panel noted this. While she appeared in that summary⁷ to have accepted my proposed amendment to Policy LF-FW-P9 there was no recommended amendment in her changes to the provisions. I assume that this is due to the need to provide alignment with the NPSIB through the non-freshwater parts of the plan in due course. Now that the position on the non-freshwater parts is clearer, I reiterate my proposed amendment provided to the FPI panel.

Stephanie Styles

19 September 2023

⁶ Primary statement of evidence on non-FPI matters, Stephanie Styles, 23 November 2023, paragraph 6.13.

⁷ Opening statement of Felicity Ann Boyd, Freshwater Planning Instrument, 28 August 2023, paragraph 148, page 39.