

IN THE MATTER OF

the Resource Management
Act 1991

AND

IN THE MATTER OF

Proposed Regional Policy
Statement for Otago 2021

**JOINT STATEMENT OF OTAGO REGIONAL COUNCIL AND PORT OTAGO LTD PLANNING
EXPERTS**

Dated 6 October 2023

INTRODUCTION

- 1) This joint witness statement relates to expert conferencing following the Supreme Court decision *Port Otago Limited v Environmental Defence Society Incorporated* [2023] NZSC 112 issued on 24 August 2023.
- 2) Attendees for the informal conferencing initiated by the Otago Regional Council reporting officer, held on 19 September 2023 were:
 - a) Marcus Langman, planner and reporting officer for the Energy, Infrastructure and Transport chapter of the Proposed Regional Policy Statement 2021 (Proposed RPS), for Otago Regional Council
 - b) Mary O'Callahan, planning witness for Port Otago Ltd (Port Otago), submitter 0301.
- 3) Our qualifications and experience were set out in our respective statements of evidence. This joint statement is prepared in accordance with sections 9.2 –9.5 of the Environment Court Practice Note 2023.

PURPOSE AND SCOPE OF CONFERENCING

- 4) The purpose of the conferencing was to agree on proposed rewording for the port provisions in light of the Supreme Court decision, and within the scope of the Port Otago submissions on the Proposed RPS. The rewording is intended to align as much as possible with the findings and drafting recommended by the Supreme Court in response to the successful appeal by Port Otago on the previous policy document, the Partially Operative Regional Policy Statement 2019 (Partially Operative RPS).
- 5) The agreement reached is only in relation to Objective EIT-TRAN-O10 and Policy EIT-TRAN-P23. Recommended amendments for the remaining provisions of the Proposed RPS remain and are set out within the evidence in chief and evidence summary documents presented by Mary O'Callahan at the hearing on 8 May 2023.

OUTCOME OF CONFERENCING

- 6) Annexure A records the agreed changes to the port provisions in the Proposed RPS and form our joint recommendation to the Hearings Panel on this matter.
- 7) In drafting our revision to Policy EIT-TRAN-P23, we have applied the Supreme Court wording at Paragraph 87 as strictly as possible, noting that the Court's wording included a cross reference to a broader policy on infrastructure (4.3.4) within the port policy (4.3.7). A similar cross reference does not feature in Policy EIT-TRAN-P23 in the Proposed RPS so the first part of the Court's drafting has not been carried over.



Marcus Langman



Mary O'Callahan

Annexure A – Recommended amendments port provisions

Proposed RPS Section	Objective or Policy	Notified Version	Recommended Amendment
<p>Energy, Infrastructure and Transport</p>	<p>EIT-TRAN-O10 – Commercial port activities</p>	<p>EIT-TRAN-O10 – Commercial port activities</p> <p><i>Commercial port activities</i> operate safely and efficiently, and within limits.</p>	<p>EIT-TRAN-O10 – Commercial port activities</p> <p><i>Commercial port activities</i> operate safely and efficiently, and within limits.</p>
<p>Energy, Infrastructure and Transport</p>	<p>EIT-TRAN-O10 – Commercial port activities</p>	<p>EIT-TRAN-P23 – Commercial port activities</p> <p>Recognise the national and regional significance of the <i>commercial port activities</i> associated with the ports at Port Chalmers and Dunedin (respectively) by:</p> <p>(1) within environmental limits as set out in Policies CE–P3 to CE–P12, providing for the efficient and safe operation of these ports and efficient connections with other transport modes,</p> <p>(2) within the environmental limits set out in Policies CE–P3 to CE–P12, providing for the development of the ports’ capacity for national and international shipping in and adjacent to existing port activities, and</p> <p>(3) ensuring that development in the coastal environment does not adversely affect the efficient and safe operation of these ports, or their connections with other transport modes</p>	<p>EIT-TRAN-P23 – Commercial port activities</p> <p>Recognise the national and regional significance of <i>commercial port activities</i> by:</p> <p>(1) within limits as set out in Policies CE–P3 to CE–P12, providing for the efficient and safe operation of the ports and efficient connections with other transport modes,</p> <p>(2) within the limits set out in Policies CE–P3 to CE–P12, providing for the development of the ports’ capacity for national and international shipping in and adjacent to existing port activities, and</p> <p>(3) ensuring that development in the coastal environment does not adversely affect the efficient and safe operation of these ports, or their connections with other transport modes, <u>and</u></p> <p>(4) <u>if any of policies CE P3 to CE P12 cannot be achieved while providing for the safe and efficient operation or development of commercial port activities then resource consent for such activities may be sought where:</u></p>

			<ul style="list-style-type: none">a. <u>the proposed work is required for the safe and efficient operation of commercial port activities, and</u>b. <u>the adverse effects from the operation or development are established to be the minimum necessary to achieve the safe and efficient operation of the commercial port activities.</u>
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