

**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 (Freshwater Planning
Instrument parts)

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

DATED 18 August 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 28 June 2023.
- 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 11 August 2023, and the supplementary evidence from Ms Boyd dated 11 August 2023, relating to the implications of the NPSIB on the issues within the Freshwater Planning Instrument parts of the proposed Otago RPS (PORPS).

2.0 Implications for the freshwater parts of the PORPS

- 2.1 I agree with the view expressed by Ms Boyd that the application of the NPSIB to the freshwater provisions of the PORPS is somewhat limited as it applies to the “terrestrial environment”. The NPSIB’s greater implications will be for the ECO provisions, which will be the subject of further evidence in September.
- 2.2 I also agree that the NPSIB is clear about the relationship between it and other national direction, and in particular that in the event of inconsistency the NZCPS and NPSFM prevail.

3.0 Effects management hierarchies and natural wetlands

- 3.1 In the context of my evidence on the freshwater parts of the PORPS, the key area of overlap relates to the application of policy LF-FW-P9 to natural wetlands, in the context of applying appropriate effects management hierarchy approaches.
- 3.2 The supplementary evidence provided by Ms Boyd contains an assessment of the differences in effects management hierarchy approaches in the NPSIB, the NPSFM and the PORPS policy ECO-P6, and the application of these to policy LF-FW-P9¹. Ms Boyd concludes that:

¹ Supplementary evidence Ms Boyd, 11 August 2023, paragraphs 95-111, pages 24-29.

“...it is not appropriate to manage aquatic biodiversity less stringently, especially in Otago. Accordingly, I continue to recommend that LF-FW-P9 applies the EMH in the ECO chapter (either its current version or its replacement with the EMH from the NPSIB) to effects on aquatic indigenous biodiversity and the EMH from the NPSFM to all other effects.”²

- 3.3 In my original evidence I assessed the relevance of policy LF-FW-P9 to specified infrastructure as relevant to Manawa Energy and their assets and operations. I noted that tying the reframed policy LF-FW-P9 back to the NPSFM clause 3.22 is appropriate as it specifically provides recognition of specified infrastructure and applies the appropriate effects management hierarchy to these activities. I reiterate that I have focussed this assessment on the impact of the provisions in relation to renewable electricity generation activities (REG) and not in a wider sense.
- 3.4 In my original evidence I then went on to raise concerns over how clause (2) of policy LF-FW-P9 then applies a second effects management hierarchy to managing the effects of an activity on indigenous biodiversity. My concerns in this regard particularly relate to the confusion of applying two hierarchies, and the lack of recognition that the NPSFM anticipates specified infrastructure being treated differently from other activities. I reiterate these concerns.
- 3.5 In terms of the supplementary evidence I also note that Ms Boyd’s conclusion above references ‘aquatic indigenous biodiversity’ meriting more stringent protection whereas policy LF-FW-P9(2) refers to ‘indigenous biodiversity’ generally. I am unsure if Ms Boyd is recommending that the policy be altered (narrowed) to relate to only aquatic indigenous biodiversity being subject to two hierarchies or not. I understand that within a wetland context there is likely to be both aquatic and terrestrial biodiversity values and it is unlikely that there will be any natural wetlands that are absent of indigenous biodiversity generally thus requiring the application of two hierarchies in all cases under the present wording.
- 3.6 However of particular relevance now that the NPSIB has come into force is that it explicitly states at clause 1.3(3) that:

“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”.

² Supplementary evidence Ms Boyd, 11 August 2023, paragraph 111, pages 28-29.

- 3.7 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 the Recommendations outline, the approach currently includes a consent pathway and effects management hierarchy for significant environmental values that differs from the one in the NPSIB.
- 3.8 Ms Boyd has not discussed in her supplementary evidence what the implications might be for relevant policies, like LF-FW-P9, of the specific exemption provided for REG.
- 3.9 My view is that similar reasoning should apply to the PORPS. As currently proposed, the dual effects management hierarchy approach creates considerable uncertainty for REG and this uncertainty can undermine the achievement of the renewable target.
- 3.10 Therefore, in my opinion it would not be appropriate to rely on the ‘more stringent’ protection of indigenous biodiversity within the NPSIB (as is the stated reasoning in Ms Boyd’s evidence) as a reason to apply a double hierarchy to REG, in particular, within the PORPS. This is particularly so given there will inevitably be new REG direction that provides a bespoke consenting pathway for this infrastructure. In my opinion, the NPSIB directs the PORPS to treat REG differently and in this case, it would be appropriate to include a qualification within policy LF-FW-P9 that leaves REG to be covered by the NPSFM effects management hierarchy alone and not the additional ECO one.
- 3.11 In noting that this position is now different for REG from other specified infrastructure, I recommend that the Policy LF-FW-P9 be amended to reflect this situation as follows:

LF-FW-P9 – Protecting natural wetlands

Protect natural wetlands by implementing clause 3.22(1) to (3) of the NPSFM, except that: ...

*(2) when managing the adverse effects of an activity, **other than renewable electricity generation activities**, on indigenous biodiversity, the effects management hierarchy (in relation to indigenous biodiversity) applies instead of the effects management hierarchy (in relation to natural wetlands and rivers).⁴*

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

⁴ Note: this wording incorporates the s42A report author’s recommended changes in plain text.

3.12 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 will address this in further detail in my evidence on the NPSIB implications for the non-freshwater parts of the PORPS.

Stephanie Styles

18 August 2023