

BEFORE THE FRESHWATER HEARING PANEL

AT DUNEDIN

KI ŌTEPOTI

UNDER

the Resource Management Act 1991

AND

IN THE MATTER

of the Freshwater Planning Instrument part of the
proposed Otago Regional Policy Statement 2021

**Memorandum of Counsel on behalf of the Director-General of Conservation
Tumuaki Ahurei on the implications of the National Policy Statement for
Indigenous Biodiversity**

Dated 18 August 2023

Department of Conservation Te Papa Atawhai

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May it please the Panel:

1. Following Minute 7 dated 21 July, the following matters are put forward on behalf of the Director-General of Conservation *Tumuaki Ahurei* (the Director-General), in response to ORC's evidence and supporting memorandum on the implications of the National Policy Statement for Indigenous Biodiversity (NPSIB) for freshwater issues in the freshwater planning instrument (FPI).
2. ORC's memorandum dated 11 August concluded that:
 - a. ORC must give effect to the NPSIB in its preparation of the pORPS:
 - b. There is scope in this hearing to do so:
 - c. Provisions of the NPSIB that apply include;
 - i. Specified highly mobile fauna;
 - ii. Indigenous vegetation cover in natural inland wetlands; and
 - iii. Natural inland wetlands in SNAs.
3. The Director-General broadly agrees with these conclusions.
4. The Director-General also considers that the NPSIB is relevant across the pORPS, in the interests of the pORPS achieving an integrated approach to the sustainable management of natural and physical resources.
5. The NPSIB reflects best practice in relation to indigenous biodiversity, and sets a good standard for local authorities in fulfilling their functions in relation to maintaining indigenous biodiversity under section 30(1)(ga) RMA. Drawing on the NPSIB in this more general manner is clearly available due to cl 3.1(1) and 3.1(2) NPSIB. The Director-General favours taking an inclusive view of implementing the NPSIB.
6. Analysis of the implications of the NPSIB for the FPI, and the continued importance of integrated management across the pORPS, is set out in the supplementary evidence of Mr Murray Brass filed alongside this memorandum.
7. Mr Brass' supplementary evidence highlights the importance of a consistent and integrated approach in the pORPS across terrestrial, freshwater, marine, and air domains. He supports Ms Boyd's proposed revision to the definition of 'natural wetland' and related provisions, or equivalent changes, to be addressed in the pORPS rather than being left to the Land and Water Regional Plan. He

also agrees with the use of the NPSIB effects management hierarchy for aquatic indigenous biodiversity, and the NPSFM effects management hierarchy for other effects in the FPI.

8. It is open to the Panel to consider all of these matters, as the Panel may make recommendations beyond the scope of submissions due to RMA Schedule 1 Clause 49. In any event, while the definition of 'natural wetland' is not listed in the FPI provisions which are subject to this hearing, policies relying on that definition are subject to this hearing, so amending the definition can be considered in the round as consequential relief.
9. Please note that where evidence already before the Panel from DOC witnesses refers to the exposure draft of the NPSIB (e.g. in the non-FPI evidence of Murray Brass, Bruce McKinlay and Dr Marine Richardson, and in the FPI evidence of Murray Brass), these references should be read as references to the NPSIB. Differences between the exposure draft and the NPSIB do not change the essence of this evidence.

RBroad

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