

**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)

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

DATED 28 June 2023

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1.0 SUMMARY

- 1.1 My evidence focusses on the Freshwater Planning Instrument (**FPI**) parts of the Proposed Otago Regional Policy Statement 2021 (**PORPS**) relevant to the renewable electricity operations of Manawa Energy Ltd (**Manawa**) in the Region and renewable electricity generation generally.
- 1.2 Renewable energy is a matter of national significance, and the PORPS is required to:
- (a) have particular regard to the benefits to be derived from the use and development of renewable energy under s7(j) of the Resource Management Act 1991 (**RMA**); and
 - (b) give effect to the policy directions in the National Policy Statement for Renewable Electricity Generation (**NPS-REG**), including to recognise and provide for renewable electricity generation activities.
- 1.3 I consider that, in its current form, the FPI parts of the PORPS do not adequately give effect to the NPS-REG, at the same time as giving effect to other national direction. In particular, I consider that one of the key ways of giving effect to the NPS-REG in a way that reconciles applicable higher order directions is to provide higher priority to renewable electricity generation than is given to general uses of water that are not identified as being of national importance. Provision for renewable electricity generation activities is essential to meeting national emissions targets, to supporting climate change action, and to ensuring security of electricity supply which is essential for the health of people and communities.

2.0 QUALIFICATIONS AND EXPERTISE

- 2.1 My name is Stephanie Amanda Louise Styles. I hold the position of Senior Resource Management Planner with the environmental consultancy firm Boffa Miskell Limited, based in the firm's Christchurch office. I have been employed by Boffa Miskell since 2004.
- 2.2 I hold a Bachelor of Planning (Hons) from Auckland University. I am also a full member of the New Zealand Planning Institute. I have over 25 years' experience in planning and resource management. I am an accredited commissioner and hold an IAP2 International Certificate in Public Participation.
- 2.3 I have been a planning consultant based in Christchurch for over 25 years, providing consultancy services for a wide range of clients around New Zealand, including local authorities, central government, land developers, and the infrastructure and power sectors. Prior to that I worked in local government.

2.4 My experience includes preparing and processing resource consent applications, statutory planning and policy preparation, and public consultation processes. I have provided advice on a broad range of developments and resource management issues to councils and a variety of clients, a number involving presenting evidence before councils, and the Environment Court. I also have extensive experience in assisting with, and advising on, plan preparation under the RMA.

3.0 CODE OF CONDUCT

3.1 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.

4.0 BACKGROUND

4.1 Manawa lodged submissions on the both the non-freshwater and freshwater parts of the PORPS. I have already presented evidence to the Panel in relation to the non-freshwater parts.

4.2 I have been providing planning advice (both policy and consents based) to Manawa in relation to a range of its hydro-electricity power generation facilities around the South Island for a number of years and am therefore familiar with their schemes and operations. I assisted Manawa with reviewing the PORPS and preparing its submissions on the PORPS.

4.3 I have read all the relevant material for the PORPS including the section 32 material, and relevant submissions and further submissions, and section 42A reports and supplementary reports on both parts of the PORPS.

5.0 POLICY CONTEXT FOR RENEWABLE ELECTRICITY GENERATION

5.1 The Government has committed to New Zealand transitioning to 100% renewable electricity generation by 2030 and is developing policy packages which aim to accelerate the deployment of renewable electricity generation and reduce carbon emissions¹. It is

¹ The passing of the Climate Change Response (Zero Carbon) Amendment Act in 2019 and the establishment of a Climate Change Commission to advise and hold Government to account on its policies may increase the ambition and enforcement of emission reductions in years ahead. The Commission has recently released its draft advice for consultation which includes a target of 60% renewable energy by 2035. The Labour Party's Election "pledge" has also set an aspirational goal of

well recognised that there is an urgent need to provide for increased renewable electricity generation as set out in the evidence of Ms Foran and other electricity generators.

- 5.2 Given that climate change is one of the most significant issues facing New Zealand, there is a need to ensure a coordinated policy response to these issues and that includes all regions making provision for renewable electricity generation in a way that contributes to the national outcomes.
- 5.3 The statutory context for Manawa's submission is based on the need to enable renewable electricity generation development and operation. The benefits from using and developing renewable energy is identified as a matter to which particular regard must be had under section 7(j) of the RMA² and is identified as a matter of national significance through the NPS-REG³. Despite this recognition, the development of provisions at regional and local scales does not always adequately recognise or provide for existing or future renewable electricity generation.

National Policy Statement for Renewable Electricity Generation (NPS-REG)

- 5.4 The NPS-REG has an overarching objective that states:

To recognise the national significance of renewable electricity generation activities by providing for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities, such that the proportion of New Zealand's electricity generated from renewable energy sources increases to a level that meets or exceeds the New Zealand Government's national target for renewable electricity generation.⁴

- 5.5 To give effect to the overarching NPS-REG objective, the PORPS needs to recognise that there are existing hydro-electricity power schemes in the Otago region that need to be recognised and provided for, and there is a need to increase renewable electricity generation generally (across all forms of renewable electricity generation) within the region to support national targets. The PORPS does not provide clear support for

100% renewable electricity by 2030 (with a review at the end of 2025), but the effect of these policy changes is not yet reflected in energy and emission forecasts for New Zealand.

<https://www.beehive.govt.nz/release/nz-embracing-renewable-electricity-future>

<https://www.iccc.mfe.govt.nz/what-we-do/energy/electricity-inquiry-final-report>

² Resource Management Act 1991, section 7 Other Matters *In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to— ...*

(j) the benefits to be derived from the use and development of renewable energy.

³ National Policy Statement for Renewable Electricity Generation 2011, 14 April 2011, page 4: *Matters of national significance*

The matters of national significance to which this national policy statement applies are:

a) the need to develop, operate, maintain and upgrade renewable electricity generation activities throughout New Zealand; and

b) the benefits of renewable electricity generation.

⁴ National Policy Statement for Renewable Electricity Generation 2011, 14 April 2011, Objective, page 4.

existing renewable electricity generation (**REG**) or provide a well-defined pathway that will enable development of new and expanded REG.

5.6 The policies under the NPS-REG require recognition of and provision for REG, acknowledge the practical implications for achieving New Zealand's target for electricity generation from renewable resources, and acknowledge the practical constraints associated with the development, operation, maintenance and upgrading of new and existing REG activities. The particular policies that are most relevant to the development of the PORPS are set out in **Appendix One** and in summary require:

- (a) Recognition and provision for REG as a **matter of national significance**,
- (b) Particular regard to be had to:
 - **maintenance of the generation output of existing REG**,
 - **protection of existing assets and operational capacity**,
 - **continued availability of the renewable energy resource**,
 - the **requirement for significant development of new REG** to meet national targets,
 - the **need to locate REG where the resource is available**,
 - the **logistical and technical practicalities** associated with generation,
 - the necessity to connect to transmission and distribution,
- (c) That where there are any residual environmental effects that cannot be avoided, remedied, or mitigated, regard shall be had to offsetting measures or environmental compensation,
- (d) Objectives, policies, and methods to provide for:
 - the development, operation, maintenance, and upgrading of new and existing hydro-electricity generation activities, and
 - activities associated with the investigation, identification and assessment of potential sites and energy sources for REG, and
- (e) Provisions in planning documents to manage activities to avoid reverse sensitivity effects on consented and existing REG.

5.7 I acknowledge that the Ministry of Business, Innovation and Employment along with the Ministry for the Environment is currently consulting on a proposed revised NPS-REG. The consultation documents explain the importance of boosting renewable generation

by 2050. Given this is only in draft I do not consider it directly relevant to the PORPS and so have not considered the draft direction any further.

Application of the NPS-REG to the PORPS

- 5.8 I consider that the PORPS does not clearly direct priorities between competing resources for the use of water and does not give effect to the NPS-REG in providing for opportunities to use water for hydroelectricity generation. The approach in the PORPS is likely to result in an undermining of the ability to operate and develop REG to support the health and wellbeing of the community. I consider that the necessary response within the PORPS is to provide an appropriate pathway for REG to be considered, while at the same time providing for responses that give effect to the other national direction.
- 5.9 In the hierarchy of documents under the RMA, the NPS-REG sits at the highest level under the Act, at the same level as the NPS-FM and all other national policy statements. In my opinion, given the important role the RPS plays in the planning hierarchy, and the effect it has on the lower order planning documents, the PORPS needs to do more to reconcile competing national direction at a regional level, rather than leaving this to regional and district plans and resource consent decisions. If it repeats national direction, or implies a priority rather than giving clear direction, it will not fulfil its purpose. If the PORPS does not achieve this, it should at least not preclude that reconciliation from occurring as part of the process of developing lower order plans, by ensuring that other important directions and priorities, such as those relating to REG, are identified and provided with adequate policy support.
- 5.10 There is no requirement under the RMA for any particular National Policy Statement to take precedence over another and thus regional plans must give effect to all National Policy Statements⁵. A more nuanced approach is required to reconcile direction. In the case of the PORPS I consider that the policy approach is unreasonably directed at prioritising freshwater remaining in waterways to the detriment of giving effect to national direction as a whole.
- 5.11 In my opinion, the PORPS needs to better recognise opportunities to enable REG. I do not consider that this takes away from the ability for the specifics of any particular area or waterbody to be considered further as part of lower order documents that will allocate available water to different uses in different locations. Nor does it obstruct the specifics of any proposal being considered as part of consenting processes.

⁵ S67, RMA

The need for REG and hydroelectric power schemes

- 5.12 A primary consideration of relevance to the FPI parts of the PORPS is that REG from hydroelectric schemes has both a functional and operational need to be connected to fresh water and to use that water as an energy source. Between 50% and 60% of New Zealand's REG comes from hydroelectric power schemes and the retention of this energy base is important to maintaining electricity supply at a local, regional and national level. It is also important that existing capacity and output is retained to support the move to 100% REG, as every reduction in output from the existing schemes means that even more new REG is required.
- 5.13 Provision for REG is essential to contribute to meeting national emissions targets, to support climate change action, and to ensure security of electricity supply for the ongoing health of people and communities – lights, heating, clean water, hospitals, schools and all the rest. Put simply people and communities rely on electricity and expect it to be there at a flick of the switch, any time of the day or night. Most don't think about where it comes from, but the policy framework can impact on the ability to make sure there is enough electricity, it is coming from the right places (namely renewable sources) and is getting to where it needs to be.

6.0 SPECIFIC ISSUES – CHAPTER AND PROVISION BASED RESPONSES

- 6.1 The following sections set out my evidence in relation to each relevant part of the PORPS. I have endeavoured to keep this evidence simple by addressing key matters and grouping issues according to the relevant part of the PORPS. Where submission points have been accepted by the s42A report author and do not merit specific evidence analysis, they are addressed briefly in section 9 of this evidence.

7.0 PART 2 – RESOURCE MANAGEMENT OVERVIEW

Significant resource management issues for the region

- 7.1 The submission by Manawa sought to include provision for REG under the 'social' heading for 'SRMR-I5 – Freshwater demand exceeds capacity in some places'. The requested inclusion seeks to specifically recognise the importance of REG in meeting the social, health and wellbeing needs of people and communities through provision of electricity to provide day to day necessities. I consider it helpful to provide a robust reflection of the role that REG plays by acknowledging it under this heading as well as in other parts of this issue statement. I recommend that the sentence be amended as follows:

Social

*Ensuring appropriate freshwater supply for human use is essential, including as part of planned urban growth, **in providing for renewable electricity generation**, and to support rural communities. It is possible this may require ...*⁶

8.0 PART 3 – DOMAINS AND TOPICS | LF – LAND AND FRESHWATER

LF-WAI – Te Mana o te Wai

- 8.1 The submission by Manawa seeks to amend 'Policy LF-WAI-P1 – Prioritisation', to specifically include the use of water for REG in clause (2) (which sets out the second priority for use of water). This submission point has been rejected on the basis that the s42A report author considers the second priority should focus only on activities and uses involving direct contact with water and should not provide for activities that support wellbeing without direct water contact⁷.
- 8.2 I disagree with the approach taken by the s42A report author to limit the second priority to those uses involving direct contact with water. This PORPS policy appears to be an interpretation of the second clause of Objective 2.1 of the NPS-FM, which states: "*second, the health needs of people (such as drinking water)*". Drinking water is provided as an example, but the NPS-FM does not specify that this clause is intended to be limited to direct contact with water, as has been interpreted and applied in the PORPS. The NPS-FM does not direct that this priority is to be narrowly applied and specifically uses the suggestive phrase "*such as*". The ORC has taken a position of reinterpreting the NPS-FM to a narrower extent than what is directed by that document.
- 8.3 People rely on electricity to keep them safe and well. It is essential for their health and day to day services, and this electricity comes, at least in part, from the use of water for hydroelectricity generation. The ability for society to function relies on the ability to generate electricity in order to provide drinking water, heat homes, cook food, dispose of wastewater, operate hospitals and the like. It is not appropriate, in my opinion, to characterise something as fundamental to human needs as electricity as something that simply allows people to provide for their social, economic and cultural wellbeing. It is not comparable to food or dairy production, where much of the end products are exported overseas⁸ and where people can easily access other food supply.

⁶ Note: this wording incorporates the s42A report author recommended changes in plain text.

⁷ Section 42A Hearing Report, 2 June 2023, paragraphs 817-821, pages 166-167.

⁸ I note that Hort NZ is seeking that a priority 2 recognition be afforded only to domestic supply, but it is unclear to me how that would be implemented via a planning framework or is able to be guaranteed given limited ability to control where products end up.

- 8.4 I consider it appropriate that use of water associated with the generation of electricity, and particularly renewable electricity generation (in light of other directions), be included within Clause (2) and as priority 2, so that water in the region is able to be managed in a way that prioritises its use for electricity generation above other activities that are not essential for human health.
- 8.5 The s42A report author also raises the concern that including REG as priority 2 could lead to other activities seeking inclusion also. I disagree, as the generation of electricity and the use of that electricity to keep people safe and well is very different from the generality of uses of water. In addition, REG is identified as being of national importance through the NPS-REG and s7 RMA, which is not the case for other activities relying on water use. I do not agree that other activities relating to primary production are in the same position, in that they could be considered essential to human health in the same way as electricity would be. Additionally, those activities themselves also rely on electricity. Further, primary production activities do not necessarily make a positive contribution to climate change mitigation, unlike electricity generation from renewable resources.
- 8.6 I note that the generation of electricity for distribution through a network is defined as a “lifeline utility” under the Civil Defence Emergency Management Act 2002, the RMA, and the PORPS, unlike other activities referred to in submissions. This is another important consideration in my opinion, and a key basis for recognising the importance of electricity generation to people’s health.
- 8.7 I consider that the approach of leaving REG to simply be a part of priority 3, would have the consequence of leaving this activity to be grouped together with all other social, economic, and cultural needs and desires when it comes to water. The result of this is that the use of water for REG would have no greater recognition, priority or enablement through this policy than any other commercial or private use of water. This does not recognise the national significance of REG. Further this situation does not recognise that water used for hydro-electric generation is then returned to the natural system to benefit the water environment or to be used for other activities downstream. This is a fundamentally different situation to most other water users, which tend to be entirely consumptive, or where they involve discharges, or have water quality implications that affect the ability to use water for health needs (i.e. drinking water, contact recreation). Recognising REG as necessary for the health needs of people would not in my opinion undermine the priority afforded to the wellbeing of waterbodies and ecosystems, or the exercise of mana whenua to uphold these.

8.8 If the Panel were to disagree with my evidence that REG should be included in priority 2 as necessary for human health, then at a minimum I consider that there should be a clear differentiation within clause (3) for priority 3 activities. This could be used to make it clear that all other uses of water are not equal and that some are more essential for people and communities than others. Otherwise a consequence of not recognising the importance of REG at this level in the RPS is that decisions on allocation of water would get ‘kicked down the road’ to the Water Plan process with no guidance around where priorities lie. This could be achieved by adding wording to clause (3) such as “... ***including, in the following priority order, REG, ... [add]***”.

8.9 Based on my opinion being that REG should be included in clause (2), I recommend that ‘Policy LF–WAI–P1 – Prioritisation’, clause (2), be amended as follows:

*(2) second, health and well-being needs of people, (te hauora o te tangata); interacting with water through ingestion (such as drinking water and consuming harvested resources harvested from the water body) and immersive activities (such as harvesting resources and bathing primary contact), ***and through the use of water for renewable electricity generation***, and ...⁹*

LF – FW – Fresh water / LF – VM Visions and Management

8.10 As a consequence of assessment of submissions generally, the s42A report author recommends combining the FW and VM sections together (all under the FW heading), with a region-wide objective, followed by FMU specific objectives and then policies¹⁰. The Manawa submission focussed on the Taiari FMU objective and key freshwater policies, however the scale of the changes recommended raise a number of new issues that were not previously evident and now impose additional expectations on some FMUs that were not included in the notified version.

8.11 In relation to the Taiari FMU vision objective (LF-VM-O4), the key issue raised in the Manawa submission was the need to recognise the presence of the Deep Stream, Waipori and Paerau / Patearoa hydroelectric power schemes which are nationally or regionally significant. The s42A report author explained that it is not clear to her “*which of these power schemes Manawa Energy considers to be nationally significant and which regionally significant*” and “*Without further evidence, I do not recommend accepting this submission point*”.¹¹.

⁹ Note: this wording incorporates the s42A report author recommended changes in plain text.

¹⁰ Section 42A Hearing Report, 2 June 2023, section 8.4, from page 176.

¹¹ Section 42A Hearing Report, 2 June 2023, paragraphs 1117-1118, page 232.

- 8.12 The Deep Stream hydroelectric power scheme is a separate scheme from the more widely known Waipori Scheme. While the two schemes are connected, they operate separately, and it is correct to recognise them both. The Waipori hydro-electric power scheme is connected to the national grid so fits within the definition of nationally significant infrastructure. The Deep Stream and Paerau / Patearoa hydro-electric power schemes are currently connected to local connections so fit within the definition of regionally significant infrastructure. Regardless, the NPS-REG identifies all REG as being of national significance.
- 8.13 These schemes are long standing and significant infrastructure within the FMU and no reasons are given for not recognising them in the objective. I consider that it is important to recognise these significant assets and their role in the FMU, and in particular the contribution that they make to the regional and national renewables picture (noting that the NPS-REG is clear that all REG makes a contribution, regardless of scale). Further they provide significant benefit locally in contributing electricity supply and drinking water provision¹². As discussed above, there is a requirement under the NPS-REG to recognise and provide for existing REG activities and these should be specifically recognised as a feature of the Taiari FMU.
- 8.14 The Clutha Mata-au FMU vision objective LF-VM-O2 recognises the Clutha hydro-electricity generation scheme, and the North Otago FMU vision objective LF-VM-O3 recognises the Waitaki hydroelectricity generation scheme. For consistency, the schemes in the Taiari FMU should also be recognised through an amendment to the objective that uses the same style of acknowledgement as that provided for the other schemes. I consider that the physical scale of schemes should not be a factor in what is recognised as being of significance at a regional and FMU level. Similarly, I do not consider it is relevant to differentiate whether the schemes fit under the regionally or nationally significant definition as they are all part of the national significance of REG and anything that is at least regionally significant in a FMU context should be recognised in the RPS. The recommended additional wording does not refer to the definition of nationally significant infrastructure or regionally significant infrastructure, so I do not consider this to give rise to any inconsistency with the definitions in the PORPS
- 8.15 Further I note that the Taiari FMU vision objective has been recommended by the s42A report author to be amended to provide for water allocation to land-based primary production. While this is a significant activity within the FMU, this is not an activity that

¹² Manawa's hydro-electric generation assets in the Otago region produce around 268 GWh, enough electricity to supply approximately 35,000 typical New Zealand households, which is around 40% of the households in the Otago region. Waipori HEPS also provides an emergency water supply for Dunedin City in the event of prolonged drought. (Evidence of Ms Foran).

is recognised through an NPS as having national significance or specifically in Part 2 RMA, and so should not be prioritised more highly than REG, including in light of the other points I have raised above. To recognise one without providing for the other is inappropriate in my opinion. I note in this regard that the s42A report¹³ implies that land-based primary production is supported by a national policy statement. This is not the case. The NPS for Highly Productive Land relates to the value of soils and their ability to support productive activities. There is no national direction that states that primary production in itself is nationally significant.

- 8.16 I consider that the addition to the policy as sought in the submission should be made to recognise these important REG assets and their benefit both regionally and nationally. I have altered the wording slightly to differentiate between national and regional significance, while reiterating that I consider both to be relevant to this objective. I recommend the wording be amended as follows:

LF-VM-04 – Taiari FMU vision

By 2050 in the Taiari FMU:

(3) the upper and lower catchment wetland complexes, including the Waipōuri/Waihola wetland complex, Upper Taiari wetland complex, and connected tussock areas are restored or enhanced where they have been degraded or lost,

(4) the gravel bed of the lower Taiari is restored and sedimentation of the Waipori Waipōuri/Waihola wetland complex is reduced,

(4A) the national significance of the Waipori hydroelectric power scheme and the regional significance of the Deep Stream, and Paerau / Patearoa hydroelectric power schemes are recognised,

(5) creative ecological approaches contribute to reduced occurrence of didymo, and

(5A) within limits, the allocation of fresh water provides for land-based primary production that supports the social, economic, and cultural well-being of communities in this FMU.¹⁴

- 8.17 The Manawa submission on ‘Policy LF–FW–P7 – Fresh water’ addressed two matters; fish passage in clause (2), and recognition of the use of water for REG through an additional clause.

- 8.18 In relation to fish passage, the s42A report author said that while she understood the concerns, the wording is not absolute and the “*nuance of how provision is to occur will happen when ORC follows the process set out in clause 3.26 which includes detailed*

¹³ Section 42A Hearing Report, 2 June 2023, paragraph 1408.

¹⁴ Note: this wording incorporates the s42A report author recommended changes in plain text.

*direction on managing fish passage*¹⁵. I disagree. The direction to protect is strong, and there is no qualification or flexibility in the provision. The protection is to be achieved by, among other things, providing for fish passage. I do not consider this to leave any flexibility. It sets a very clear expectation that fish passage will be required in all circumstances. To give effect to this current wording, provisions will have to be included at the regional plan level to require fish passage and there is currently no ability for a lower order document to say that this expectation does not have to be met. In my reading of the wording it does not allow the regional plan to provide for situations where fish passage is not provided and still give effect to this blunt policy wording. It could lead to confusion between the NPS-FM direction and its “adaption” in the PORPS.

- 8.19 The requirement of the NPS-FM clause 3.26 is the inclusion in regional plans of the following objective (or similar words):

The passage of fish is maintained, or is improved, by instream structures, except where it is desirable to prevent the passage of some fish species in order to protect desired fish species, their life stages, or their habitats.

This clearly does not require the provision of fish passage in all cases and having inflexible language in the RPS with a blanket expectation of fish passage does not enable the Water Plan to take the expected nuanced approach. An example of a situation where provision of fish passage would be inappropriate is some parts of the Waipori Scheme where it has been established that native galaxiids are protected from predation by the scheme structures reducing passage for predatory species and if fish passage was required to be introduced then there could be a significant adverse effect on that galaxiid population.

- 8.20 Making an amendment to the policy as sought in the Manawa submission continues to be appropriate in my opinion, as it recognises that the NPS-FM allows for differing circumstances and not a blanket response. It enables the approach required by the NPS-FM to be included within the regional water plan and allows the determination of what may be appropriate or not to be undertaken in lower order documents or consenting processes without leading to a failure to give effect to the RPS policy. On reflection, I consider that the wording included in the submission (“where appropriate”) could be considered to be too broad for the limited purposes that the NPS-FM envisages. On this basis I recommend the following amendment:

¹⁵ Section 42A Hearing Report, 2 June 2023, paragraph 1392, page 285.

*(2) the habitats of indigenous freshwater species are protected and sustained, including by providing for fish passage **except where it is desirable to prevent the passage of some fish species in order to protect desired fish species, their life stages, or their habitats.***¹⁶

- 8.21 The request in the Manawa submission for recognition of the use of water for REG through adding an additional clause to policy LF-FW-P7, has been wrapped up in the s42A report author's recommendation for a new policy LF-FW-P7A on water use¹⁷. I acknowledge that this proposed new policy explicitly identifies REG as an activity for 'allocating fresh water to' and recognising 'benefits of using freshwater'¹⁸.
- 8.22 However, I consider that the way the new policy is worded provides acknowledgement of REG only and does not give effect to the NPS-REG which directs that REG be enabled. The language used downplays the necessity for REG and simply lists this as one means of supporting social, economic and cultural wellbeing. Essentially it simply recognises that a variety of uses demand water without giving any direction on priority or allocation.
- 8.23 Further, the way the policy is framed places REG alongside consumptive takes for irrigation to service land-based primary production. Such irrigated primary production does not provide the same contribution to the health of people as electricity does and irrigated primary production is not identified as nationally significant whereas REG is.
- 8.24 A lack of recognition of the need to direct water allocation to REG activities at the RPS level, and in terms of integrated management of resources, will in my opinion undermine future processes to appropriately consider national direction. Not providing direction at the RPS level that decisions on the allocation of water in lower order documents will need to consider provision of water for REG leaves a lack of certainty for decision makers and plan users. It is appropriate to foreshadow the choices that need to be made in the Water Plan and provide clear direction on provision for hydroelectric generation rather than leaving this to be treated the same as other general uses of water.
- 8.25 I consider that specific recognition of the role of hydro electricity generation is appropriate as it has national importance, and this differentiates it from other general water uses. To reiterate my non-FPI evidence, I am not suggesting that provision of water for REG activities will be appropriate in all situations, but I consider that it is essential that the provisions of the PORPS as a whole enable REG activities to be explored and assessed

¹⁶ Note: this wording incorporates the s42A report author recommended changes in plain text.

¹⁷ Section 42A Hearing Report, 2 June 2023, from paragraph 1407, page 288.

¹⁸ Proposed policy LF-FW-P7A chapeau and clause (1).

rather than simply ruling them out without providing any pathway for consideration. Application of holistic assessment should be applied where water is available for allocation, and such allocation should, in my opinion, be prioritised to those activities of greatest community benefit and national importance above others.

- 8.26 In addition, I note that this policy does not provide strong support or direction in relation to maintaining a continued supply of water for the maintenance and protection of existing hydroelectric generation capacity / output as a key component of maintaining existing REG nationally. I consider that, at the very least, the protection of water for existing hydro should be provided for, as without the retention of existing hydro there becomes an even greater shortfall of renewable generation to achieve national outcomes.
- 8.27 I consider that more directive language should be used, and clarity should be given to the prioritisation of water allocation to ensure that what water is available is firstly directed to the most significant uses for the benefit of people and communities. This aligns with my recommendations on LF-WAI-P1 above. On this basis I recommend that the policy be amended as follows:

LF-FW-P7A – Water allocation and use

Within limits and in accordance with any relevant environmental flows and levels, the benefits of using fresh water are recognised and over-allocation is either phased out or avoided by:

- (1) *allocating fresh water efficiently to support the social, economic, and cultural well-being of people and communities to the extent possible within limits, including **prioritising allocation of available fresh water** for:*
 - (a) *community drinking water supplies, **and***
 - (b) ***existing output capacity and future generation from** renewable electricity generation **schemes**, and **then***
 - (c) *land-based primary production, **and then***
 - (d) ***other commercial and industrial uses.***
- (2) *ensuring that no more fresh water is abstracted than is necessary for its intended use, ...*¹⁹

- 8.28 In relation to policy 'LF-FW-P9 – Protecting natural wetlands', Manawa's submission was confined to noting the need to improve clarity in the wording of one specific clause (clause (1)(a)(vi)). This was on the basis that Manawa was not concerned about the rest of the wording as notified (as it largely replicated the NPS-FM clause 3.22 approach). However the approach now recommended by the s42A report author is to delete that

¹⁹ Note: this wording incorporates the s42A report author recommended changes in plain text.

policy altogether and replace it with new wording²⁰. If the wording now recommended had been notified, then Manawa would have submitted on it as it raises a particular concern in relation to the way it addresses the effects management hierarchy approach.

8.29 The proposed new wording for the replacement policy starts off in the chapeau by tying protection of wetlands back to NPS-FM clause 3.22. This is a simpler approach than the previous approach, and it also ensures appropriate consideration of infrastructure as NPS-FM clause 3.22 itself specifically provides recognition of specified infrastructure stating:

The loss of extent of natural inland wetlands is avoided, their values are protected, and their restoration is promoted, except where: ...

(b) the regional council is satisfied that:

(i) the activity is necessary for the purpose of the construction or upgrade of specified infrastructure; and

(ii) the specified infrastructure will provide significant national or regional benefits; and

(iii) there is a functional need for the specified infrastructure in that location; and

(iv) the effects of the activity are managed through applying the effects management hierarchy; or ...

8.30 However, the proposed new wording of proposed policy LF-FW-P9 then goes on to 'double dip' at clause (2) in relation to application of the effects management hierarchy by requiring that where indigenous biodiversity is involved an additional effects management hierarchy is also applied. This approach is problematic for a number of reasons:

(a) NPS-FM clause 3.22 (1)(b)(iv) already requires specified infrastructure to be considered against the effects management hierarchy set out in the NPS-FM, and it is inefficient and confusing to have two effects management hierarchies applying to the same activity.

(b) NPS-FM clause 3.22 (1)(b)(iv) clearly considers the level of effects management that should be applied to specified infrastructure, as distinct from other activities generally²¹, and thus I consider that the level of effects management applied through the NPS-FM must be considered at a national level to be appropriate for

²⁰ Section 42A Hearing Report, 2 June 2023, from paragraph 1420, page 292.

²¹ Noting that NPS-FM clause 3.22 as well as providing specific clauses for specified infrastructure, also provides specific clauses for urban development, quarrying, mineral extraction, landfills and cleanfills.

specified infrastructure without the need to be more restrictive in Otago. I am not aware of any technical evidence that shows wetlands within Otago should generally be treated as more significant than those nationally. Dr Keesing's evidence in the non-FPI hearing (which I understand is being adopted along with relevant sections of my evidence in these proceedings) raises a number of concerns with the effects management hierarchy to be applied to indigenous biodiversity and these apply to the policy direction as it is now proposed to be amended.

- (c) Regardless, the phraseology within clause (2) is not clear on which effects management hierarchy is actually being referred to by "*effects management hierarchy (in relation to indigenous biodiversity)*". The previous policy wording referenced policies ECO-P3 and ECO-P6, but the amended wording does not reference any particular policy either within the RPS or potentially outside it. This is confusing for users and decision makers.
- (d) The presence of indigenous vegetation is a key component of what constitutes a natural inland wetland, and it would be unlikely that there would be many natural inland wetlands that do not incorporate at least some degree of indigenous biodiversity. In this way, it would appear unlikely that many, if any, wetlands would not be subject to clause (2). This makes the reach of the policy overbroad, and in fact somewhat misleading as it is not actually following NPS-FM clause 3.22 but is instead applying additional stringency above what is deemed necessary for wetlands nationally. I have not identified or assessed the full implications of this approach.

8.31 I recommend that the Policy FW-P9 be amended to remove clause (2) or at least to amend it to not apply to the construction or upgrade of specified infrastructure (as is provided for in clause 3.22 of the NPS-FM) 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 the construction or upgrade of specified infrastructure**, 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).²²*

²² Note: this wording incorporates the s42A report author recommended changes in plain text.

9.0 OTHER RELIEF SOUGHT

9.1 There are a number of the Manawa submission points and relief sought that have been accepted by s42A report author or have been wrapped up in wider amendments recommended. I note these below:

- (a) In relation to the definition of 'specified infrastructure' I acknowledge that the s42A report author has recommended amendments that remove this term from use within the PORPS and therefore there is no need to address this submission point further. Further I note that the definitions of 'infrastructure', 'nationally significant infrastructure' and 'regionally significant infrastructure' continue to apply within the PORPS, and the term 'specified infrastructure' continues to be applicable within the context of the NPS-FM.
- (b) Manawa sought that objective 'LF – WAI – O1 Te Mana o te Wai' be retained as notified. In my opinion, the small amendments recommended by the s42A report author do not take away from the essential intent of that objective.
- (c) In respect of the objective 'LF-VM-O4 – Taieri FMU vision', the Manawa submission sought to confirm that clause (3) relate to connected tussock areas and it is acknowledged that this has been accepted by the s42A report author.
- (d) The Manawa submission included a submission point seeking the change of 'possible' to 'practicable' within policy 'LF-FW-P10 – Restoring natural wetlands'. This has been largely accepted by the s42A report author.
- (e) Similarly, the s42A report author's recommendations in relation to method 'LF-FW-M6 – Regional plans' largely address the matters that Manawa raised on this provision.

10.0 CONCLUSION

10.1 I consider that the current form of the PORPS is inadequate in providing for REG activities, and I do not consider that it sufficiently gives effect to the NPS-REG alongside other national direction or has appropriate regard to s7 RMA.

10.2 I consider that the amendments suggested in the Council's s42A report would introduce changes that partially recognise some of the issues raised in submissions and improve the PORPS in places. However, I consider that it is necessary for further improvements to provide for REG as a matter of regional and national significance and relevant and important physical resources within Otago that make contributions with national implications. I consider that many of the requested changes that I have assessed on

behalf of Manawa continue to have merit in improving the clarity, consistency and useability of the PORPS as well as in giving effect to national direction. I have included above the requested changes to the PORPS that I consider should be made.

APPENDIX ONE: KEY POLICIES FROM THE NPS-REG

The particular policies that are most relevant to the development of the PORPS (emphasis added):

POLICY A

*Decision-makers shall recognise and provide for the **national significance** of renewable electricity generation activities, including the national, regional and local benefits relevant to renewable electricity generation activities. These benefits include, but are not limited to: ...*

POLICY B

Decision-makers shall have particular regard to the following matters:

a) **maintenance of the generation output of existing** renewable electricity generation activities can require **protection of the assets, operational capacity and continued availability of the renewable energy resource;** and

b) **even minor reductions in the generation output** of existing renewable electricity generation activities **can cumulatively have significant adverse effects** on national, regional and local renewable electricity generation output; and

c) meeting or exceeding the New Zealand Government's national target for the generation of electricity from renewable resources **will require the significant development** of renewable electricity generation activities.

POLICY C1

Decision-makers shall have particular regard to the following matters:

a) the **need to locate** the renewable electricity generation activity **where the renewable energy resource is available;**

b) **logistical or technical practicalities** associated with developing, upgrading, operating or maintaining the renewable electricity generation activity;

c) the **location of existing structures and infrastructure** including, but not limited to, roads, navigation and telecommunication structures and facilities, the distribution network and the national grid in relation to the renewable electricity generation activity, and **the need to connect** renewable electricity generation activity **to the national grid;** ...

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.

POLICY D

Decision-makers shall, to the extent reasonably possible, manage activities to avoid reverse sensitivity effects on consented and on existing renewable electricity generation activities.

POLICY E2

*Regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to **provide for the development, operation, maintenance, and upgrading of new and existing hydro-electricity generation activities** to the extent applicable to the region or district.*

POLICY G

Regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation by existing and prospective generators.