

FURTHER SUBMISSIONS ON PROPOSED OTAGO REGIONAL POLICY STATEMENT 2021 PURSUANT TO CLAUSE 8 OF THE FIRST SCHEDULE OF THE RESOURCE MANAGEMENT ACT 1991

To: Otago Regional Council
70 Stafford Street
Dunedin
Attention: ORC Policy Team

By E-Mail only: RPS@orc.govt.nz

Submitter: Z Energy Limited¹
PO Box 2091
WELLINGTON 6140

BP Oil NZ Limited
PO Box 99 873
AUCKLAND 1149

Mobil Oil NZ Limited
PO Box 1709
AUCKLAND 1140

Hereafter, collectively referred to as the Fuel Companies/FuelCo

Address for Service: 4Sight Consulting Limited
201 Victoria Street West
Auckland Central
PO Box 911 310, Victoria Street West
AUCKLAND 1142

Attention: Mark Laurensen
Phone: 021 0868 8135
Email: markl@4sight.co.nz

¹ On behalf of the wider Z group, including the Z Energy and Caltex operations in New Zealand.

The Fuel Companies' further submissions are as contained in the attached Table.

1. The Fuel Companies' interest in the proposed plan is greater than the interest of the general public.
2. The Fuel Companies do wish to be heard in support of their further submissions.
3. If others make similar submissions the Fuel Companies may be prepared to consider presenting a joint case with them at any hearing.

Signed on and behalf of Z Energy Limited, BP Oil New Zealand Limited, and Mobil Oil New Zealand Limited



Mark Laurensen

Principal Planner

15 November 2021

Name of person/group making original submission	Original submission number	Provision / Topic	Relief sought by submitter (additions in underline, deletions in strike through)	Position of further submitter	Reason for support / opposition and relief sought by the further submitter
Port Otago Ltd	00301.001	EIT-TRAN-General	Amend RPS to provide for a satisfactory resource management regime that enables the safe and efficient use and development of commercial port activities within the Otago Harbour.	Support	Commercial port activities, including the FuelCo bulk fuel storage activities, are at least regionally significant infrastructure and the ability for the port to operate safely and effectively is critical to the region.
Port Otago Ltd	00301.058	Format	Include “coastal icons” or similar that make it clear throughout the RPS, which provisions apply within the coastal environment, and by omission, which do not apply, along with explanatory text to confirm this.	Support	The relevance of provisions to commercial port activities and activities in the coastal environment more generally was sought in the FuelCo primary submissions. Additional measures/amendments to provide this clarity are supported.
Port Otago Ltd	00301.036 00301.037 00301.038	New definitions	Amend to include a definition to distinguish between activities that have differing policy tests in the RPS: <ul style="list-style-type: none"> • operation and maintenance of infrastructure • upgrades and development of existing infrastructure • new infrastructure 	Support in part	The FuelCo have significant infrastructure located at the port and support the principle of further clarity regarding its operation, maintenance and upgrade but anticipate this may be better addressed in lower order documents.
Port Otago Ltd	00301.028	CE-General	Amend RPS to remove duplication of provisions applying to coastal activities and provide clarity on the policy direction. i.e., fully contain to the CE chapter, and remove application of ECO, LF, EIT, HCV, NFL and HAZ provisions from applying to the coastal environment. Otherwise amend document to avoid duplication of provisions managing environmental values that are	Support	The relevance of provisions to commercial port activities and activities in the coastal environment more generally was sought in the FuelCo primary submissions. Additional measures to provide this clarity are supported.

			already addressed within the CE chapter of the document.		
Port Otago Ltd.	00301.017	CE-O5	Amend as follows: “Activities in the coastal environment: (1) make efficient use of space occupied in the coastal marine area, (2) are of a scale, density and design compatible with their location, (3) are only provided for within appropriate locations and limits, and (4) (3) maintain or enhance public access to and along the coastal marine area, including for customary uses, <u>except where restriction is necessary for safety or security requirements.”</u>	Support	The recognition of the specific safety and security requirements of the port is supported
Port Otago Ltd.	00301.018	CE-P1	Amend as follows: “Recognise that: (1) coastal hazards must be identified in accordance with CE – P2(4) and managed in accordance with the HAZ–NH – Natural hazards section of this RPS; (2) <u>commercial</u> port activities must be managed in accordance with <u>policy P23 in the EIT – TRAN – Transport</u> section of this RPS; and (3) historic heritage must be managed in accordance with the HCV – Historical and cultural values section of this RPS.” This submission is subject to our submission seeking amendments to the provision that is referenced in sub – clause (2) of the policy (refer to our submission on EIT – TRAN – P23).	Support	The FuelCo support the proposed clarity of provisions relevant to commercial port activities.

Port Otago Ltd	00301.029	ECO - General	Remove duplication with provisions covered in the CE chapter and provide greater clarity for any provisions within the ECO chapter which apply to the coastal environment. For example, by including “coastal icons” within the ECO chapter for any specific provisions which are not duplicative and are necessary to apply to the coastal environment.	Support	The relevance of provisions to commercial port activities and activities in the coastal environment more generally was sought in the FuelCo primary submissions. Additional measures/amendments to provide this clarity are supported.
Port Otago Ltd	00301.031	ECO - General	Amend to clarify which provisions in the RPS apply to activities in the coastal environment and where this might differ to enable port activities consistent with P9 of the NZCPS.	Support	The relevance of provisions to commercial port activities and activities in the coastal environment more generally was sought in the FuelCo primary submissions. Additional measures to provide this clarity are supported.
Port Otago Ltd	00301.035	EIT-INF-P11	Clarify how the effects test within this policy should be read in conjunction with other effects policies within other chapters of the RPS through including cross referencing in other chapters to indicate that this policy has precedence for the consideration of infrastructure.	Support	The relevance of provisions to commercial port activities and activities in the coastal environment more generally was sought in the FuelCo primary submissions. Additional measures to provide this clarity are supported.
Port Otago Ltd	00301.039	EIT-INF-P12	Amend to include cross referencing in other chapters to indicate that this policy has precedence for the consideration of infrastructure.	Support	The relevance of provisions to commercial port activities and activities in the coastal environment more generally was sought in the FuelCo primary submissions. Additional measures to provide this clarity are supported.
Port Otago Ltd	00301.40	EIT-INF-P13	Amend to include cross referencing in other chapters to indicate that this policy has precedence for the consideration of infrastructure. Remove references to areas or values that are not defined or identified through the RPS.	Support in part	The relevance of provisions to commercial port activities was sought in the FuelCo primary submissions. Additional measures to provide this clarity are supported.

Port Otago Ltd	00301.044	EIT-TRAN-P23	<p>Replace with a new policy that is generally consistent with the outcome sought through the current Port Otago appeals on the previous RPS before the Court of Appeal. Wording to be as set out below, or to similar effect:</p> <p>“Recognise the functional needs of commercial port activities at Port Chalmers and Dunedin and manage their effects by:</p> <ol style="list-style-type: none"> (1) ensuring that other activities in the coastal environment do not adversely affect commercial port activities, (2) providing for the efficient and safe operation of these ports and effective connections with other transport modes, (3) providing for the development of those ports' capacity for national and international shipping in and adjacent to existing commercial port activities, (4) if any of the policies in this regional policy statement that require avoidance of adverse effects on areas having significant or outstanding values cannot be implemented while providing for the safe and efficient operation of commercial port activities then, consider through a resource consent process, whether adverse effects are caused by safety considerations which are paramount or by transport efficiency considerations and determine whether consent should be granted notwithstanding the adverse effects, with that consent having sufficient conditions to ensure the adverse effects on the protected areas are the minimum possible (through adaptive management or otherwise), and 	Support in part	The FuelCo consider there may be alternatives to P23 that provide more clarity for all parties, particularly RSI and NSI.
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			(5) in respect of nationally significant surf breaks avoid, remedy or mitigate the adverse effects.”		
Port Otago Limited	00301.047	HAZ-NH-P2	Clarify application triggers for the APP6 process and associated policies within the hazard policies and/or APP6, so that the RPS is clear whether these provisions apply to infrastructure projects requiring resource consent from regional council and/or apply to plan changes by the applicable territorial authority.	Support in part	The FuelCo support the principle of territorial authorities preparing mapping at a district wide scale.
Port Otago Limited	00301.048	HAZ-NH-P3	Delete and amend heading of HAZ – NH – P4 so it can be relied on for both new and existing activities. Alternatively, define what constitutes an existing versus new activity and remove or refine the use of “avoid” so that activities that do not increase the risk of harm from hazards are not inadvertently prevented from occurring.	Support in part	Further clarity regarding new and existing activities is supported.
Royal Forest and Bird	00230.002	General – Terminology	The RPS should be amended throughout to remove the term environmental limits and replace it with the outcome sought (e.g. ‘to maintain and restore ecosystem health and indigenous biodiversity’) unless it is clear that there is a specific environmental limit which cannot be breached for that particular objective policy or method.	Support in part	Clear environmental limits are supported.
Fonterra	00213.005	New definition	Insert new definition of Reverse sensitivity as follows, or words to similar effect: <u>means the potential for the operation of an existing lawfully established activity to be compromised, constrained or curtailed by the more recent establishment of other activities which are sensitive to the adverse environmental effects being generated by the pre – existing activity.</u>	Support in part	The definition in the partially operative RPS better recognises that it is not just new activities but also the intensification of existing activities. That definition is preferred. The potential for the operation of an existing lawfully established activity to be constrained or curtailed by the more recent establishment or intensification of other

					activities which are sensitive to the established activity.
Waka Kotahi	00305.05	New definition	Include a definition of Reverse Sensitivity, and we suggest the following, or similar, definition, which is taken from the Partially Operative Otago RPS 2018 as follows: <u>“The potential for the operation of an existing lawfully established activity to be constrained or curtailed by the more recent establishment or intensification of other activities which are sensitive to the established activity.”</u>	Support	If reverse sensitivity is defined, the partially operative RPS 2019 definition is supported.
Royal Forest and Bird	00230.012	Definition – residual risk	Amend as follows: <u>“in relation to natural hazard risk, means the risk remaining after the implementation or undertaking of all available and practicable risk management measures.”</u>	Oppose	The term residual risk is only used in the proposed RPS in relation to residual risk but is commonly used in relation to a range of other activities, for instance management or risk associated with the storage and use of hazardous substances and narrowing the definition in this way in the RPS may complicate the use of the term in underlying documents.
Fonterra	00213.009	Definition – sensitive activity	Replace the definition of Sensitive activities with the following: <u>includes the following:</u> <u>(1) residential activity</u> <u>(2) visitor accommodation</u> <u>(3) community facility</u> <u>(4) educational facility</u> <u>(5) health care facility</u>	Support	The definition may be appropriate to the NPS ET but is too narrow for the purposes of the RPS.
Royal Forest and Bird	00230.041	CE - General	Amend the CE provisions to include the Policy 3 precautionary approach from the NZCPS	Oppose	Repeating NZCPS provisions in the RPS is unnecessary and opposed. The RPS needs to

					give effect to the NZCPS in the context of Otago.
Royal Forest and Bird	00230.043	CE - General	Amend the CE provisions to include prescriptive provisions of the NZCPS.	Oppose	Repeating NZCPS provisions in the RPS is unnecessary and opposed. The RPS needs to give effect to the NZCPS in the context of Otago.
Royal Forest and Bird	00230.038	CE - General	Amend the CE provisions to include areas identified as meeting Policy 11 of the NZCPS as SNA's or SMA's in addition to meeting the APP2 criteria.	Oppose in part	Mapping of areas meeting Policy 11 is supported but these do not necessarily correlate to SNA or SMA.
Te Rūnanga o Ngāi Tahu	00234.021	CE – New provision	Add the following policy: <u>“Discharge of contaminants into Te Tai o Ārai Te Uru Coastal water quality will be improved by:</u> <u>(a) in time, ceasing all wastewater discharges into Te Tai o Ārai Te Uru</u> <u>(b) avoiding adverse effects from discharge originating in terrestrial, freshwater or marine environments.</u> <u>(c) cessation of wastewater infiltration into stormwater systems.</u> <u>(d) attenuation and treatment of stormwater prior to discharge into coastal waters.”</u>	Oppose	Avoidance of adverse effects from stormwater discharges is not practicable, will effectively preclude network discharges and provision of new development and will not promote sustainable management.
Kāi Tahu ki Otago / Aukaha	00226.189	LF-FW-P15	Amend as follows: Minimise <u>Avoid</u> the adverse effects of direct and indirect discharges of stormwater, and wastewater and human wastes (including cremated ashes) to fresh water by: ...	Oppose in part	Avoidance of adverse effects from stormwater discharges is not practicable, will effectively preclude network discharges and provision of new development and will not promote sustainable management.
Royal Forest and Bird	00230.094	LF-FW-P15	Amend as follows: Minimise <u>Avoid</u> the adverse effects of direct and indirect discharges of stormwater and wastewater to fresh water by:	Oppose	Avoidance of adverse effects from stormwater discharges is not practicable, will effectively preclude network discharges and provision of new development and will not promote sustainable management.

Ravensdown	00121.058	LF-FW-P15	Amend as follows: Minimise the adverse effects of direct and indirect discharges of stormwater and wastewater to fresh water by: ... (2) requiring: ... (e) stormwater and wastewater discharges to meet any applicable water quality standards, <u>after reasonable mixing</u> , set for FMUs and/or rohe, and	Support	The explicit recognition of reasonable mixing is supported to ensure water quality standards are not inadvertently applied as end of pipe standards.
QAC	00313.037	LF – General	Amend as follows: PORPS should be amended in manner that (1) ensures it is consistent with the partially operative 2019 Otago Regional Policy Statement, in so far as and to the extent that that planning instrument recognises, provides for and protects nationally and regionally significant infrastructure. AND (2) nationally and regionally significant infrastructure should be subject to its own bespoke management regime within the PORPS, so that it is clear which objectives, policies and methods apply in any given case, so to avoid potential conflicting policy approaches within the PORPS to such infrastructure, and to ensure efficient and certain administration and implementation	Support	Consistency with the recently developed partially operative RPS is supported as are clear provisions for RSI and NSI, for the reasons set out by the submitter and in the submission of the FuelCo.
Contact Network Waitaki Oceana Gold	00318.017 00320.016 00115.018	ECO – P2	Amend as follows: Delete ECO – P2 or amend as follows: Identify: (1) the areas and values of significant natural areas in accordance with APP2, and	Support	It is appropriate that this is resourced by local authorities at a district wide scale through relevant plans.

			<p>(2) indigenous species and ecosystems that are taoka in accordance with ECO – M3.</p> <p><u>Significant natural areas will be identified by local authorities using the criteria in APP2 and these areas will be mapped at an appropriate scale in the relevant regional and district plans.</u></p> <p><u>Indigenous species and ecosystems that are taoka will be identified by local authorities in accordance with ECO – M3, and these areas will be mapped in the relevant regional and district plans.</u></p>		
Royal Forest and Bird	00230.104	ECO-P5	<p>Amend as follows:</p> <p>“ECO – P5 – Existing Maintenance and operation of activities in significant natural areas</p> <p>Except as provided for by ECO – P4, provide for <u>the maintenance and continuing operation of existing lawfully established</u> activities within significant natural areas and that may adversely affect indigenous species and ecosystems that are taoka, if:</p> <p>(1) the <u>maintenance and continuing operation</u> continuance of an existing lawfully established activity will not lead to the loss (including through cumulative loss) of extent or degradation of the ecological integrity of any significant natural area or indigenous species or ecosystems that are taoka, and</p> <p>(2) the adverse effects of the <u>maintenance and continuing operation of an existing activity</u> are no greater in character, spatial extent, intensity or scale than they were before this RPS became operative. and</p> <p><u>(3) the activity is not within 10m of a freshwater body or within the coastal environment.”</u></p>	Support in part	An important aspect of continued operation is minor upgrades. This should be reflected in ECO-P5.

Trustpower Limited	00311.023	ECO-P5	Amend as follows: “Except as provided for by ECO – P4, provide for existing activities within significant natural areas and that may adversely affect indigenous species and ecosystems that are taoka, if: (1) the continuation <u>and minor upgrading</u> of an existing activity will not lead to the loss (including through cumulative loss) of extent or degradation of the ecological integrity of any significant natural area or indigenous species or ecosystems that are taoka, and (2) the adverse effects of an existing activity <u>and any minor upgrades</u> are no greater <u>the same or similar</u> in character, spatial extent, intensity or scale than they were before this RPS became operative.”	Support in part	As set out in relation to 00230.104. the FuelCo support specific provision for maintenance, operations, and minor upgrading.
Dunedin City Council	00139.225	HAZ-CL-General	Amend to add direction on the management of different types of hazardous substances in close proximity to: - sensitive activities (i.e. activities that accommodate large numbers of people and/or people who are more vulnerable to hazardous substances, e.g. hospitals, childcare centres, retirement homes, hotels and residential activities) - sensitive natural environments - areas subject to natural hazards.	Oppose in part	For the reasons set out in its primary submissions, the FuelCo consider that district plans should be targeted to matters not covered by HSNO or HSWA and that robust s32 analysis will be necessary to demonstrate the need for intervention, for instance as may be justified for some MHF, for instance where zoning does not provide adequate controls around potential encroachment/reverse sensitivity.
CIAL	00307.003	SRMR-I4	Amend as follows: Include discussion of the risk that incompatible urban growth can pose for significant infrastructure. Urban growth and infrastructure provision and planning should be done hand – in – hand, whilst supporting the recognition in SRMR – I4 that urban growth is a significant resource management issue, in particular the recognition	Support	The FuelCo primary submissions address this in relation to hazard substances and support recognition of the same through SRMR.

			that urban development can lead to reverse sensitivity effects and impacts on infrastructure if not appropriately managed and located.		
CIAL	00307.018	EIT-INF-P11	Amend as follows This policy be further improved by making reference to “.....the <u>safe, efficient and effective</u> operation and maintenance.....” of regionally significant infrastructure.	Support	In the context of RSI and NSI, it is appropriate that activities can operate without unnecessarily constrained, for instance due to encroachment of sensitive activities. This is better reflected in the amended provision sought by CIAL.

RPS

From: Mark Laurenson <markl@4sight.co.nz>
Sent: Monday, 15 November 2021 6:30 a.m.
To: RPS
Subject: Further submissions on behalf of Fuel Companies (submitter 510)
Attachments: Further submissions_FuelCo_ORPS.pdf; Further submissions_FuelCo_ORPS.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: LATE, Further Submission

Good morning

Attached in word and pdf versions are further submissions on behalf of Z Energy Limited, BP Oil New Zealand Limited, and Mobil Oil New Zealand Limited (the Fuel Companies, submitter 510). It is acknowledged that the period for further submissions closed at 5pm on Friday 12 November but it is anticipated that there will be no delays nor parties prejudiced by the delivery of these on Monday 15 November (before 7am). Please advise in due course if a formal request for a waiver is required.

Kind regards

Mark Laurenson

Principal Planner & Auckland Planning Manager

Mobile: 021 0868 8135



4SIGHT COVID-19 RESPONSE PLAN

201 Victoria Street West, Auckland Central 1010
PO Box 911 310, Victoria St West, Auckland 1142

[4Sight.Consulting](#) [LinkedIn](#)

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