

**In the Environment Court of New Zealand
Christchurch Registry**

**I Te Kooti Taiao O Aotearoa
Ōtautahi Rohe**

ENV-2024-CHC-

Under the Resource Management Act 1991 (the Act)

In the matter of an appeal under clause 14(1) of the First Schedule of the Act

and in the matter of decisions by Otago Regional Council in respect of the Proposed Otago Regional Policy Statement 2021

Between **Royal Forest and Bird Protection Society of New Zealand Incorporated**
Appellant

And **Otago Regional Council**
Respondent

Notice of New Zealand Transport Agency Waka Kotahi wish to be party to proceedings

Dated 5 June 2024

大成 DENTONS KENSINGTON SWAN

40 Bowen Street P +64 4 472 7877
PO Box 10246 F +64 4 472 2291
Wellington 6143 DX SP26517

Solicitor: N McIndoe/S Fowler
E nicky.mcindoe@dentons.com/samantha.fowler@dentons.com

To The Registrar
 Environment Court
 Christchurch

- 1 New Zealand Transport Agency Waka Kotahi (**'NZTA'**) wishes to be a party to an appeal by Royal Forest and Bird Protection Society of New Zealand Incorporated (**'Appellant'**) against the decisions of the Otago Regional Council on the Proposed Regional Policy Statement 2021 (non-freshwater parts) (**'PORPS'**).
- 2 NZTA made a submission (number 305) and further submission (number 305) on the PORPS. NZTA either submitted and/or further submitted on all of the provisions listed at paragraph 5.
- 3 NZTA is not a trade competitor for the purposes of sections 308C or 308CA of the Resource Management Act 1991.
- 4 NZTA is interested in part of the proceedings, being those aspects of the appeal that are set out below at paragraph 5 of this notice.
- 5 NZTA is interested in the following issues:
 - a Amendments sought to IM-P12;
 - b Amendments sought to CE-P8;
 - c Amendments sought to CE-P9;
 - d Amendments sought to CE-P10;
 - e Amendments sought to LF-FW-P13;
 - f Amendments sought to LF-FW-P14;
 - g Amendments sought to LF-LS-M12;
 - h Amendments sought to ECO-P3;
 - i Amendments sought to ECO-P4;
 - j Amendments sought to ECO-P5A;
 - k Amendments sought to ECO-P6;
 - l Amendments sought to ECO-M4;

- m Amendments sought to ECO-M5;
 - n Amendments sought to EIT-INF-O4;
 - o Amendments sought to EIT-INF-P12;
 - p Amendments sought to EIT-INF-P13; and
 - q Amendments sought to NFL-P2.
- 6 NZTA has set out its position in relation to the above provisions and the reasons for those in **Appendix A** to this notice.
- 7 NZTA agrees to participate in mediation or other alternative dispute resolution of the proceedings.

Dated 5 June 2024



Nicola McIndoe

Counsel for New Zealand Transport Agency Waka Kotahi

Address for service:

New Zealand Transport Agency

PO Box 5245

Dunedin 9058

New Zealand

Email: environmentalplanning@nzta.govt.nz

Appendix A Table of PORPS provisions of interest

TABLE OF PORPS PROVISIONS OF INTEREST		
PROVISION	POSITION	REASON
IM-P12	Oppose	NZTA opposes the Appellant's relief because it introduces environmental bottom lines and limits which are uncertain and not required by the RMA or national direction. The relief sought would also introduce a requirement that there be no alternative location, site or method for the activity, which is a particularly onerous requirement, and may compromise NZTA's ability to carry out its statutory functions.
CE-P8	Oppose	<p>The Appellant seeks to delete clause (1B) "controlling vehicle access", and provide further restrictions on vehicle access and use.</p> <p>NZTA opposes the amendments sought because NZTA will sometimes need vehicle access to beaches to construct, maintain, repair or upgrade structures, such as erosion protection structures. The relief sought by the Appellant would prevent this access.</p>
CE-P9	Oppose	<p>The Appellant seeks to amend clauses 2A and 4.</p> <p>NZTA supports the inclusion of 'operational need' in CE-P9, and considers that this better gives effect to the NZCPS as a whole. NZTA also supports retention of the qualifying text "where practicable and reasonable", as this recognises that it is not always practicable or reasonable to require activities such as transport infrastructure to be set back from the coastal marine area and adjoining areas.</p>
CE-P10	Oppose	<p>The Appellant seeks to delete "operational need" from the provision.</p> <p>As above, NZTA supports the Decisions version of CE-P10, which recognises the relevance of operational need.</p>
LF-FW-P13	Oppose	<p>NZTA opposes the replacement of the wording "to the extent practicable" in clause 4 with "wherever possible", and does not consider this amendment is required in order to give effect to the NPS-FM or NZCPS.</p> <p>NZTA also opposes the removal of the word "permanently" in clause 7 as this could compromise NZTA's ability to carry out maintenance, upgrading and repairs.</p>

TABLE OF PORPS PROVISIONS OF INTEREST

PROVISION	POSITION	REASON
LF-FW-P14	Oppose	<p>The Appellant seeks to remove reference to “where practicable” from the chapeau.</p> <p>NZTA opposes this amendment and does not consider it is required in order to give effect to the NPS-FM. The amendment sought could compromise NZTA’s ability to carry out its statutory functions.</p>
LF-LS-M12	Oppose	<p>The Appellant seeks to replace reference to “minimising” in (1)(b) with “avoiding”.</p> <p>The Appellant’s proposed amendment could compromise NZTA’s ability to carry out its statutory functions where state highways are in areas of montane tall tussock grasslands. NZTA therefore opposes the amendment sought.</p>
ECO-P3	Oppose	<p>The Appellant’s amendments would introduce uncertainty regarding the application of the NPSFM and treatment of indigenous biodiversity. NZTA therefore opposes the amendments sought.</p>
ECO-P4	Oppose	<p>The Appellant’s amendments would introduce uncertainty regarding the application of the NPSFM and treatment of indigenous biodiversity. NZTA therefore opposes the amendments sought.</p>
ECO-P5A	Oppose	<p>The Appellant’s amendments would introduce uncertainty regarding the application of the NPSFM and treatment of indigenous biodiversity. NZTA therefore opposes the amendments sought.</p>
ECO-P6	Oppose	<p>The Appellant’s amendments would introduce uncertainty regarding the application of the NPSFM and treatment of indigenous biodiversity. NZTA therefore opposes the amendments sought.</p>
ECO-M4 Regional Plans	Oppose	<p>The Appellant’s amendments would introduce uncertainty. NZTA therefore opposes the amendments sought.</p>

TABLE OF PORPS PROVISIONS OF INTEREST

PROVISION	POSITION	REASON
ECO-M5	Oppose	NZTA opposes these amendments for the same reasons as above.
EIT-INF-O4	Oppose	<p>The Appellant seeks to add “within environmental limits” to this provision.</p> <p>NZTA opposes the Appellant’s relief because it introduces environmental bottom lines and limits which are uncertain and not required by the RMA or national direction.</p>
EIT-INF-P12	Oppose	<p>The Appellant seeks to add a new clause to the provision that “adverse effects on indigenous biodiversity are managed in accordance with the respective ECO, CE, NFL, or LF chapters.”</p> <p>The relief proposed by the Appellant is redundant as the chapters referenced in this amendment would apply regardless.</p>
EIT-INF-P13	Oppose	NZTA opposes the amendments sought as these would introduce uncertainty and could compromise NZTA’s ability to carry out its statutory functions.
NFL-P2	Oppose	<p>The Appellant seeks to delete clause 3.</p> <p>NZTA opposes the deletion of clause 3 as it is not superfluous, but provides greater clarity regarding the relationship between the EIT and NFL provisions to ensure the functional and operational needs of infrastructure are recognised.</p>