BEFORE THE ENVIRONMENT COURT AT CHRISTCHURCH

I TE KŌTI TAIAO O AOTEAROA ŌTAUTAHI ROHE

ENV-2024-CHC-

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF an appeal pursuant to Clause 14 of

the First Schedule of the Resource

Management Act 1991

BETWEEN ARA POUTAMA AOTEAROA

DEPARTMENT OF CORRECTIONS

Appellant

AND OTAGO REGIONAL COUNCIL

Respondent

NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISIONS ON THE PROPOSED OTAGO REGIONAL POLICY STATEMENT

Dated: 10 May 2024

GREENWOOD ROCHE

LAWYERS
CHRISTCHURCH
Solicitor: F Lupis / R A Murdoch
(rmurdoch@greenwoodroche.com)

Level 3 680 Colombo Street Christchurch 8011 PO Box 139

Christchurch 8140

TO: The Registrar

Environment Court

Christchurch

1 INTRODUCTION

- 1.1 Ara Poutama Aotearoa Department of Corrections (Ara Poutama) appeals against parts of the decision of the Otago Regional Council (ORC or Council) in respect of the Proposed Otago Regional Policy Statement 2021 (PORPS).
- 1.2 Ara Poutama made a submission on the PORPS on 2 September 2021 seeking:
 - (a) the inclusion of the Otago Corrections Facility (OCF) and "community corrections activity" (as essential social infrastructure) in the PORPS definition of regionally significant infrastructure (the Definition); and
 - (b) the retention of various provisions¹ within the PORPS which support those *regionally significant infrastructure* activities.²
- 1.3 A copy of that submission is included as **Appendix A.**
- 1.4 The Hearing Panel appointed to hear and make recommendations on those submissions recommended that Ara Poutama's submission to include OCF and "community corrections activity" in the Definition be declined.³ That recommendation was accepted by ORC (**Decision**). A copy of that Decision is set out at **Appendix B**, which includes the PORPS Definition as approved by ORC.
- 1.5 Ara Poutama is not a trade competitor for the purposes of section308D of the Resource Management Act 1991 (RMA).

Being the definition of "Additional Infrastructure", as well as UFD-O2, EIT-INF-O4, EIT-INF-P10, EIT-INF-P12, EIT-INF-P15.

-

Submission by Ara Poutama Aotearoa, the Department of Corrections on the Proposed Otago Regional Policy Statement, 2 September 2021, #102.

Proposed Otago Regional Policy Statement 2021 Hearing Panel Report, Appendix One: Report by the Non-Freshwater Hearings Panel – Section 10: Energy, Infrastructure and Transport, March 2024, page 245 and 246.

1.6 Ara Poutama received notice of the Decision on the PORPS on 30 March 2024.

2 REASONS FOR THE APPEAL

- 2.1 The general reasons for the appeal are that declining to include the OCF and "community corrections activity" in the Definition:
 - (a) does not promote the sustainable management of resources in accordance with section 5 of the RMA in that it:
 - (i) does not manage the use, development, and protection of natural and physical resources which enable people and communities to provide for their social, economic, and cultural well-being and for their health and safety, as required by section 5 of the RMA;
 - (ii) does not sustain the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations, as required by section 5 of the RMA;
 - (b) does not promote the efficient use and development of natural and physical resources; and
 - (c) does not represent the most appropriate way to achieve the objectives of the PORPS, as required by section 32 of the RMA.

Specific reasons for the appeal

- 2.2 Without limiting the generality of paragraph 2.1, Ara Poutama's reasons for appealing the Definition are that:
 - (a) Similar to the other activities which were included in the Definition:
 - (i) Ara Poutama's facilities serve an essential social function which is necessary for the effective functioning of the justice system and the health, safety, and well-being of all New Zealanders.
 - (ii) The facilities operate as an integrated network at a local, regional, and national level. The needs of those in Ara

Poutama's care must be carefully balanced with available capacity and resources within the system.

- (iii) The facilities provide social benefits that are significant at a regional level and comparable to other similar facilities referenced in the Definition, including defence facilities.
- (b) It is appropriate for the Definition to capture a broader range of social infrastructure where these provide significant regional benefits. Doing otherwise would be at odds with the RMA's purpose. It is also inconsistent with the approach taken by RMA planning documents in other regions and districts to identify Ara Poutama's activities as regionally significant infrastructure.⁴
- (c) Providing for Ara Poutama's facilities in the Definition would better support their development and protection, while requiring environmental effects to be appropriately managed. It would be a more efficient, effective and appropriate way to achieve the relevant PORPS objectives.

3 RELIEF SOUGHT

- 3.1 Ara Poutama seeks the following relief (additions shown in <u>underline</u>):
 - (a) The definition of *regionally significant infrastructure* be amended as follows:

Regionally significant infrastructure

means:

...

- (14) Ski area infrastructure; and
- (15) Otago Corrections Facility and community corrections activity; and
- (16) any infrastructure identified as nationally significant infrastructure.
- (b) Any such alternative or consequential amendments required to give effect to this relief.

See for example the Northland Regional Policy Statement, the Far North District Plan, the Hawkes Bay Resource Management Plan, the Canterbury Regional Policy Statement.

4 ATTACHMENTS

4.1 In addition to Ara Poutama's PORPS submission (**Appendix A**) and the Decision (**Appendix B**), a list of names and addresses of persons served with this notice is included as **Appendix C**.

DATED this 10th day of May 2024



F Lupis/R Murdoch

Counsel for Ara Poutama Aotearoa Department of Corrections

Address for Service of Appellant:

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Email: rmurdoch@greenwoodroche.com

Contact: Rachel Murdoch

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Appendix A - Ara Poutama submission on the proposed Otago Regional Policy Statement 2021

Ara Poutama Aotearoa the Department of Corrections Ara Poutama RPS21 0102



ARA POUTAMA AOTEAROA THE DEPARTMENT OF CORRECTIONS: SUBMISSION ON THE PROPOSED OTAGO REGIONAL **POLICY STATEMENT**

To: Otago Regional Council

> Private Bag 1954 Dunedin 9054

Email: rps@orc.govt.nz

Submitter: Ara Poutama Aotearoa, the Department of Corrections

> Private Box 1206 Wellington 6140

Andrea Millar - Manager, Resource Management and Land Management Attention:

Phone: 027 216 7741

Email: andrea.millar@corrections.govt.nz

Ara Poutama Aotearoa, the Department of Corrections ("Ara Poutama" or "the Department") makes the submissions on the Proposed Otago Regional Policy Statement (the "PORPS") in the attached document.

The Department confirms it could not gain an advantage in trade competition through this submission.

The Department would like to be heard in support of its submission. If other submitters make a similar submission, the Department will consider presenting a joint case with them at a hearing.

Andrea Millar - Manager, Resource Management and Land Management

For and on behalf of Ara Poutama Aotearoa, the Department of Corrections

Dated this 2nd day of September 2021

Introduction

Ara Poutama Aotearoa, the Department of Corrections ("Ara Poutama" or "the Department") is responsible under the Corrections Act 2004 for enforcing sentences and orders of the criminal court and the New Zealand parole board. In meeting this responsibility, the Department establishes and operates custodial and non-custodial corrections sites, monitors people in the care of the Department serving their sentences in the community and provides supported and transitional accommodation to assist the rehabilitation and/or reintegration of people back into the community.

The Department considers that its services enable people and communities to provide for their social and cultural well-being, and therefore those activities and services contribute to the sustainable management purpose of the RMA.

Custodial Corrections Facilities

Custodial corrections facilities include prisons, and detention facilities and may include non-custodial transitional accommodation for people with high and complex needs, who have completed a prison sentence and are being supported and prepared for reintegration and transition back into the community. Non-custodial rehabilitation activities and programmes may also occur on site.

Within the Otago Region, the Department operates the Otago Corrections Facility, which is located at Narrowdale Road, Milburn. The site is zoned Rural in the Clutha District Plan, and is subject to designation D32A, with the Minister of Corrections being the Requiring Authority.

Non-Custodial Community Corrections Sites

Non-custodial community corrections sites include service centres and community work facilities and are essential social infrastructure. Non-custodial services and their associated infrastructure play a valuable role in reducing reoffending. Community work helps offenders learn vital skills and to give back to their community, and in return the community benefits from improved amenities.

The service centres provide for probation, rehabilitation and reintegration services. Offenders report to probation officers as required by the courts or as conditions of parole. The Department's staff also use service centres to undertake assessments and compile reports for the courts, police and probation officers. Service centres may also be used as administrative bases for staff involved in community-based activities. The overall activity is effectively one of an office where the generic activities involved are meetings and workshop type sessions, activities which are common in other office environments.

In addition to these service centres, the Department operates community work facilities. Community work is a sentence where offenders are required to undertake unpaid work for non-profit organisations and community projects. Offenders will report to a community work facility where they subsequently travel to their community work project under the supervision of a Community Work Supervisor. The community work facilities can be large sites with yard-based activities and large equipment and/or vehicle storage. Service centres and community work facilities may also be co-located on the same site.

Community corrections sites support offenders living in that community. The Department therefore looks to locate its sites in areas accessible to offenders, and near other supporting government agencies. Commonly, sites are therefore located in commercial or business areas, but may also be located in industrial areas, where large lots and accessibility suit the yard-based nature of some operations.

The Department operates the following non-custodial community corrections sites in the Otago region:

- Dunedin Central Community Corrections 100 Lower Stuart Street, Dunedin.
- Dunedin South Community Corrections 97 King Edward Street, South Dunedin.
- Oamaru Community Corrections 10 Wear Street, Oamaru.
- South Otago Community Corrections 62 Narrowdale Road, Milburn.
- Balclutha Community Corrections 7 Renfew Street, Balclutha.
- Alexandra Community Corrections 1 Dunorling Street, Alexandra.
- Queenstown Community Corrections 12/204 Von House, Hawthorne Drive, Queenstown.

Supported and Transitional Accommodation

The Department operates residential units in the community throughout New Zealand. Whilst there is a range of housing, rehabilitation, reintegration and support provided in these facilities (depending on the needs of the residents), generally the activity can be described as supported and/or transitional residential housing. This service provides housing and other support for some people in the Department's care to assist with their rehabilitation, transition and integration back into the community. This may be for people following their release from prison, but also those on bail or community-based sentences (such as home detention).

The Courts may sentence an offender to home detention as an alternative to imprisonment. Individuals on home detention serve a home-based sentence at a suitable and approved residence and are electronically monitored 24 hours a day, seven days a week. It is an increasingly common sentence for many individuals in the Department's care who otherwise would have received a short prison sentence for their offending (they can be sentenced to home detention from 14 days to one year). People on a home detention sentence are required to remain at a typical residential dwelling. Some people released from prison, may also be paroled on to a specific address where they receive support to reintegrate into the community.

Supported and transitional community accommodation units provide necessary facilities, such as sleeping, cooking, bathing and toilet facilities, which encompass a typical household living scenario; and a typical residential dwelling is utilised for such purposes. People living in transitional accommodation are not detained on site, the same as anyone else living in the community, except that some people are electronically monitored and/or supervised. In some instances, supervisory staff are present on-site to provide support on a 24 hour a day, seven day a week basis, but do not reside there. In other instances, supervisory staff will provide support on a part-time basis.

In summary, Ara Poutama is responsible for a range of supported and transitional accommodation activities, which vary in nature and scale, of all which fall within the ambit of a residential activity.

The Department's Submission on the Proposed Otago Regional Policy Statement

The Department has a vested interest in the implications that the PORPS may have on the establishment and operation of custodial and non-custodial facilities, and transitional and supported accommodation. The Department's specific submissions on the PORPS are outlined in the following table.

Submissions

Interpretation / Definitions – Definition of "Regionally community corrections activity in the definition of "Regionally Significant	 the list of activities in the definition of "Regionally Significant Infrastructure" as follows: means: roads classified as being of regional importance in accordance with the One Network Road Classification, electricity sub-transmission infrastructure, renewable electricity generation facilities that connect with the local distribution network but not including renewable electricity generation facilities designed and operated principally for supplying a single premise or facility, telecommunication and radiocommunication facilities, facilities for public transport, including terminals and stations, the following airports: Dunedin, Queenstown, Wanaka, Alexandra, Balclutha, Cromwell, Oamaru, Taieri, navigation infrastructure associated with airports and commercial ports which are nationally or regionally significant, defence facilities, community drinking water abstraction, supply treatment and distribution infrastructure that provides no fewer than 25 households with drinking water for not less than 90 days each calendar year, and community water supply abstraction, treatment and distribution infrastructure (excluding delivery systems or infrastructure primarily deployed for the delivery of water for irrigation of land or rural agricultural drinking-water supplies), community stormwater infrastructure,

PORPS Provision	Submission		Relief Sought (additions shown in <u>underline</u> , deletions shown in strikethrough)
			wastewater and sewage collection, treatment and disposal infrastructure serving no fewer than 25 households, and
			 Otago Regional Council's hazard mitigation works including flood protection infrastructure and drainage schemes.
			13. Otago Corrections Facility and community corrections activity.
		2.	Any consequential amendments required to give effect to this relief.
Part 1 – Introduction and	Support	1.	Retain the definition of "Additional Infrastructure"
General Provisions / Interpretation / Definitions – Definition of "Additional	The Department requests the definition of "Additional Infrastructure" is retained.		
Infrastructure"	The definition of "Additional Infrastructure" is consistent with the wording provided for in the National Policy Statement for Urban Development (NPS-UD).		
	The definition captures social infrastructure, such as supported and transitional housing, which is essential social infrastructure and plays a valuable role in building strong and resilient communities. They enable people and communities to provide for their social and cultural well-being to achieve the purpose of the RMA and give effect to the NPS-UD.		
Part 3 – Domains and Topics / Topics / EIT – Energy,	Support	1.	Retain Objective EIT-INF-O4.
Infrastructure, and Transport –	The Department requests that Objective EIT-INF-O4 is retained.		
Objective EIT-INF-O4	Objective EIT-INF-O4 appropriately seeks efficient, effective, and resilient infrastructure enables the people and communities of Otago to provide for their social and cultural wellbeing, their health and safety, and supports sustainable economic development and growth within the region within environmental limits.		
	It is appropriate that infrastructure that enables people and communities to provide for their social and cultural well-being to achieve the purpose of the RMA, including regionally significant essential social infrastructure such as the Otago Corrections Facility and community corrections activity.		

PORPS Provision	Submission		Relief Sought (additions shown in <u>underline,</u> deletions shown in strikethrough)
Part 3 – Domains and Topics / Topics / EIT – Energy, Infrastructure, and Transport – Policy EIT-INF-P10	Support	1.	
	The Department requests that Policy EIT-INF-P10 is retained.		
	Policy EIT-INF-P10 appropriately requires decision making on the allocation or use of natural and physical resources take into account the needs of nationally and regionally significant infrastructure.		
	It is appropriate that the allocation and use of natural and physical resources takes into account the continued operation, use, and development of regionally significant infrastructure to achieve the purpose of the RMA, including essential social infrastructure such as the Otago Corrections Facility and community corrections activity.		
Part 3 – Domains and Topics / Topics / EIT – Energy,	Support	1.	Retain Policy EIT-INF-P12.
Infrastructure, and Transport –	The Department requests that Policy EIT-INF-P12 is retained.		
Policy EIT-INF-P12	Policy EIT-INF-P12 appropriately requires upgrades and development of regionally significant infrastructure is provided for, while ensuring it is designed and located as far as practicable to maintain functionality during natural hazards and is as far as practicable co-ordinated with long-term land use planning.		
	It is appropriate that the upgrading and development of regionally significant infrastructure is provided for to achieve the purpose of the RMA, including essential social infrastructure such as the Otago Corrections Facility and community corrections activity.		
Part 3 – Domains and Topics / Topics / EIT – Energy,	Support	1.	Retain Policy EIT-INF-P15.
Infrastructure, and Transport –	The Department requests that Policy EIT-INF-P15 is retained.		
Policy EIT-INF-P15	Policy EIT-INF-P15 appropriately requires the establishment of activities be avoided where it may result in reverse sensitivity effects on or compromise the functional or operational needs of regionally significant infrastructure.		
	It is appropriate to protect the operation of regionally significant infrastructure from other activities to achieve the purpose of the RMA, including essential social infrastructure such as the Otago Corrections Facility and community corrections activity.		

PORPS Provision	Submission		Relief Sought (additions shown in <u>underline</u> , deletions shown in strikethrough)
Part 3 – Domains and Topics / Topics / EIT – Energy, Infrastructure, and Transport – Policy EIT-INF-P17	Support	1.	Retain Policy EIT-INF-P17.
	The Department requests that Policy EIT-INF-P17 is retained.		
	Policy EIT-INF-P17 appropriately requires "Additional Infrastructure" required to service existing and expected urban growth demands to be provided for.		
	"Additional Infrastructure" as defined in the PORPS includes social infrastructure, such as supported and transitional housing. It is appropriate to provide for such activities which are essential social infrastructure and play a valuable role in building strong and resilient communities. They enable people and communities to provide for their social and cultural well-being to achieve the purpose of the RMA and give effect to the NPS-UD.		
Part 3 – Domains and Topics /	Support	1.	Retain Objective UFD-02.
Topics / UFD – Urban Form and Development – Objective	The Department requests that Objective UFD-O2 is retained.		
UFD-O2	Objective UFD-O2 appropriately seeks that development of Otago's urban areas improves housing choice and allows non-residential activities to meet the needs of communities in appropriate locations.		
	It is appropriate that improved housing choice including supported and transitional accommodation, and non-residential activities such community corrections activities are provided for in appropriate locations in urban areas. Such activities are essential social infrastructure and enable people and communities to provide for their social and cultural well-being to achieve the purpose of the RMA and give effect to the NPS-UD.		

RPS

From: Maurice Dale <Maurice.Dale@boffamiskell.co.nz>

Sent: Thursday, 2 September 2021 2:57 p.m.

To: RPS

Cc: HURRELL, Philippa (WELLHO)

Subject: Ara Poutama Department of Corrections - Submission on Proposed Otago RPS **Attachments:** Ara Poutama Department of Corrections - Submission on Proposed Otago RPS.pdf

Follow Up Flag: Follow up Flag Status: Flagged

Categories: Submission - Central Government

Good afternoon,

Please find attached a submission from Ara Poutama Department of Corrections on the Proposed Otago RPS.

Please acknowledge receipt of this submission.

Kind regards

Maurice Dale | Planner | Principal

E: <u>maurice.dale@boffamiskell.co.nz</u> | D: +64 3 364 4217 | M: +64 27 801 8072 | LEVEL 1 | 141 CAMBRIDGE TERRACE | CHRISTCHURCH 8013 | NEW ZEALAND

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Appendix B – Proposed Otago Regional Policy Statement 2021 Hearing Panel Report, Appendix One: Report by the Non-Freshwater Hearings Panel – Section 10: Energy, Infrastructure and Transport, March 2024, pages 242 – 247 (Definition of regionally significant infrastructure).

Regionally significant infrastructure

means:

- (1) roads which provide a lifeline connection for a community OR roads classified as being of regional importance in accordance with the One Network Framework;
- (2) electricity sub-transmission infrastructure;
- (2A) significant electricity distribution infrastructure;
- (3) renewable electricity generation facilities that connect with the local distribution network but not including renewable electricity generation facilities designed and operated principally for supplying a single premise or facility;
- (4) telecommunication and radiocommunication networks;
- (5) public transport, terminals and stations;
- (6) the following airports: Dunedin, Queenstown, Wānaka, Alexandra, Balclutha, Cromwell, Ōamaru, Taiari;
- (7) navigation infrastructure associated with airports and commercial ports which are nationally or regionally significant;
- (8) defence facilities for defence purposes in accordance with the Defence Act 1990;
- (8A) established community-scale irrigation and stockwater infrastructure;
- (9) community drinking water abstraction, supply treatment and distribution infrastructure that provides no fewer than 25 households with drinking water for not less than 90 days each calendar year, and community water supply abstraction, treatment and distribution infrastructure (excluding delivery systems or infrastructure primarily deployed for the delivery of water for irrigation of land or rural agricultural drinking-water supplies);
- (10) community stormwater infrastructure;
- (11) wastewater and sewage collection, treatment and disposal infrastructure serving no fewer than 25 households;

- (11A) oil terminals, bulk fuel storage and supply infrastructure, and ancillary pipelines at Port Chalmers and Dunedin;
- (12) Otago Regional Council's hazard mitigation works including flood protection infrastructure and drainage schemes;
- (13) landfills and associated solid waste sorting and transfer facilities which are designated by, or are owned or operated by a local authority;
- (14) ski area infrastructure; and
- (15) any infrastructure identified as nationally significant infrastructure.

Appendix C – List of names and addresses of persons served

Submitter	Contact Details
Aurora Energy	10 Halsey Street
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New	Attention: Chris Horne
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Christchurch	c/- Jo Appleyard, Chapman Tripp
International	Level 5, PwC Centre 60 Cashel Street
Airport Limited	PO Box 2510 Christchurch 8140
(CIAL)	1 0 BOX 2010 Officerial of 01 to
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or Conservation	Attention: Murray Brass
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Dunedin City	50 The Octagon, Dunedin
Council	PO Box 5045, Dunedin 9054

	Attention: Anna Johnson
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Otago /	Au ii G I M T I
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and the Central	Nigel Paragreen
South Island Fish	
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PowerNet Ltd	PO Box 489 Dunedin
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Council	Attention: Erin Auchterlonie
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	Tanya.Stevens@ngaitahu.iwi.nz
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	ainsley@amconsulting.co.nz
	Telephone: +64 27 215 0600
Trojan	C/- Cue Environmental Limited
Holdings	PO Box 1922
Limited	or
Limited	Courier to Level 2 The Station Building, Queenstown 9300
	Attention: Ben Farrell
	ben@cuee.nz
	021767622 or 034500034
Trustpower	Private Bag 12023
Limited	TAURANGA 3143
	Attantion, Nicola Foren
	Attention: Nicola Foran 021 908 951
	nicola.foran@trustpower.co.nz
Waitaki	PO Box 159, Oamaru, 9444
Irrigators	03 434 6721
Collective	admin@waitakiirrigators.co.nz
Limited	adminite wateakiii rigacororcomz
Waka Kotahi NZ	Richard Shaw
Transport Agency	EnvironmentalPlanning@nzta.govt.nz
, ,	Richard.Shaw@nzta.govt.nz
Wayfare Group	14 Captain Roberts Road, Te Anau 9600
Ltd	
	Attention: Fiona Black
	fblack@realjourneys.co.nz
	03 2499033 / 027 4912087
	Copy to:
	Ben Farrell
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	021767622 / 034500034
	PO Box 1922, Queenstown
Z Energy	4Sight Consulting Limited
Limited, BP Oil	201 Victoria Street West, Auckland Central
NZ Limited, Mobil	PO Box 911 310, Victoria Street West
Oil NZ Limited	AUCKLAND 1142
	Attacking Made Laurenge
	Attention: Mark Laurenson
	021 0868 8135
	markl@4sight.co.nz