

**From:** [Chris Drayton](#)  
**To:** [RPS](#)  
**Cc:** [Caroline Spencer](#)  
**Subject:** Submission by Contact Energy Limited on the Proposed Otago Regional Policy Statement 2021  
**Date:** Friday, 3 September 2021 2:23:17 p.m.  
**Attachments:** [image001.png](#)  
[Contact Energy Submission PORPS 3 9 21.docx](#)  
[Contact Energy Submission PORPS 3 9 21.pdf](#)

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Tēnā koe,

Please find enclosed by way of submission, Word and PDF versions of Contact Energy's response to Proposed RPS 21.

Please do not hesitate to get in touch if Council officers need further information or have any queries,

Ngā mihi

**Chris Drayton**  
Specialist – Consenting and Resource Management  
Generation & Development  
**Mob:** 027 511 0365



PO Box 10742, Wellington 6143  
Level 2, Harbour City Tower  
29 Brandon Street  
Wellington, New Zealand  
[contact.co.nz](http://contact.co.nz)

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FORM 5

**SUBMISSION ON NOTIFIED PROPOSAL FOR REGIONAL POLICY STATEMENT**

Clause 6 of Schedule 1, Resource Management Act 1991

**To** Otago Regional Council

**Name** Contact Energy Limited

1. **This is a submission on the Proposed Otago Regional Policy Statement June 2021 (“PORPS”).**

2. **Contact Energy could not gain an advantage in trade competition through this submission.**

3. **The specific provisions of the proposal that this submission relates to are:**

Contact Energy’s overall submission is summarised in paragraph 4 below. Its submissions on various provisions of the PORPS, and the specific relief sought, is then set out in the table at **Appendix A.**

4. **Background and issues that inform Contact Energy’s position on the PORPS**

***Contact Energy Ltd***

Contact Energy Limited (“**Contact Energy**”) is the second largest electricity generator and retailer in New Zealand with a mostly renewable portfolio of electricity generation assets. It owns and operates 11 power stations and currently produces 80-85% of its electricity from renewable hydro and geothermal resources. Contact Energy is New Zealand’s largest producer of renewable electricity from geothermal resources, and in Otago, it owns and operates the nationally important 784MW Clutha Hydro Scheme on the Clutha Mata-Au, which currently generates

between 7% and 10% of New Zealand's electricity. The Scheme consists of the Hawea Dam (1958), Roxburgh Dam and Power Station (1956) and Clyde Dam and Power Station (1992).

In 2008, less than 55% of Contact Energy's electricity generation portfolio was from renewable sources. Since then, Contact Energy has led the substitution of almost 3TWh of higher carbon thermal generation (including by closing two large gas fired power stations at New Plymouth and Otahuhu) and increased the proportion it generates from renewables to well over 80%. Contact Energy's target is to achieve over 95% renewable generation by 2026 and reduce Scope 1 and Scope 2 Green House Gas ("GHG") emissions by 45% compared to a 2018 baseline.

Contact Energy intends to accelerate its decarbonisation progress and help lead New Zealand's industrial, road transport, electricity, data processing, and agricultural sectors transition away from fossil fuels to a much greater proportion of renewable energy use. Maintaining and improving the capacity, efficiency, flexibility and output from the Clutha Hydro Scheme underpins that, but Contact Energy is also intent on developing other renewable electricity generation options around the country, including wind and solar.

***The urgent need to decarbonise and the role of renewable electricity in achieving that***

The electrification of New Zealand's economy and society is critical to decarbonising and addressing the climate change crisis. New Zealand's two principal climate change commitments (a 30 percent reduction of gross GHG emissions below 2005 levels for the period 2021– 2030; and net zero emissions of all greenhouse gases other than biogenic methane by 2050) will not be met without displacing fossil fuels for uses like transport and process heat, and electrifying the economy with low-emission renewable electricity.

In its recent draft advice to the Government, the Climate Change Commission (CCC) has identified that nearly 60% of New Zealand's total energy requirements will need to be from electricity in 2050, up from 25% in 2016. The Commission estimated that there will be a 68% increase in the demand for electricity. Therefore, New Zealand will need to accelerate its investment in the development of renewable electricity generation capacity to ensure lowest cost electricity and security of supply. A major factor in achieving this is the ability to obtain environmental and planning approvals for renewable projects, while balancing that need against other environmental goals and limits.

Transpower's most recent modelling estimates that achieving an accelerated electrification future will require 40 new grid connected generation projects by 2035. To put this in perspective, as much generation will need to be built in the next 15 years as was built in the past 40 years. With approximately 80% of electricity already generated from renewable sources, and with a wealth of future renewable electricity options, New Zealand is well-positioned to lead the world in decarbonisation through electrification and renewable generation investment.

The Resource Management Act 1991 (“**RMA**”) (and its replacement legislation) and the Plans and Policy Statements made under them, including the Proposed Otago Regional Policy Statement, are key documents in enabling New Zealand to meet that challenge. If the policies in the PORPS fail to provide for the maintenance and growth of new and existing renewables, it will have a strong chilling effect on the energy transformation New Zealand requires.

### ***Renewable energy and the PORPS***

Against that background, Contact Energy generally supports the PORPS references to climate change and climate change mitigation. However, it is critical that this is clearly expressed throughout the PORPS and, where conflict arises with other policies, that it is prioritised. Contact Energy is concerned that the PORPS focusses heavily on the issues that arise from climate change impacts but fails to adequately recognise that allowing for renewable energy generation is critical to the solution. Otago has a significant number of existing and nationally important renewable assets which need to be better recognised and provided for throughout the PORPS.

The Region is also rich in resources like wind and water and the opportunity to have new renewable generation facilities assessed on their merits should also be clearly provided for within the PORPS.

Contact Energy is further concerned that the drafting of the PORPS fails to acknowledge the reality that depending on the mode of generation, renewable electricity development and operation requires large scale access to, and creates effects on, natural environments and resources, such as water, natural areas, landscapes and in some cases native plants and animals. Developments like hydro and wind are not ‘effects-free’ and are not always able to avoid, protect and enhance all facets of the natural environment, or fully maintain natural ecological functioning and integrity, particularly at a localised scale.

Where the PORPS creates a platform for the establishment of rigid environmental limits or prioritises avoidance allowing for no exceptions or the balancing of environmental pros and cons of renewable energy activities, it will potentially make such activities un-consentable in the Otago Region and curtail the necessary rate of transition to a low emissions economy.

### ***The role of the PORPS in resolving tension between priorities***

Contact Energy acknowledges that the PORPS recognises and attempts to address tensions between renewable electricity generation activities and other environmental goals or limits via IM-P12. This policy seeks to allow for activities which provide enduring regional or national significant mitigation of climate change impacts, even where it may give rise to a “non

compliance with an environmental bottom line set in any policy or method of this RPS". However, this is seriously qualified and constrained by requirements to:

- Design and carry out the activity to have the *smallest possible environmental impact* consistent with its purpose and functional needs;
- Ensuring any offset achieves the best ecological outcome, is close to the location of the activity and within the same ecological district or coastal marine biogeographic region;
- The activity will not impede the achievement of the objectives of this RPS, or the objectives of regional policy statements in neighbouring regions.

The drafting of this policy and its inherent subjectiveness, its extensive use of qualifiers and its imposition of constraints, mean that it is unlikely to be particularly useful in assisting a renewable electricity generation project to be assessed on its merits.

Contact Energy has similar concerns with the drafting of various provisions within the Energy and Infrastructure Chapters of the PORPS. For example, EN-P6 relates to the management of adverse effects of renewable electricity generation activities. This policy requires the application of INF-P13.

INF-P13 is as follows:

*'When providing for new infrastructure outside the coastal environment:*

*(1) avoid, as the first priority, locating infrastructure in all of the following:*

- (a) significant natural areas,*
- (b) outstanding natural features and landscapes,*
- (c) natural wetlands,*
- (d) outstanding water bodies,*
- (e) areas of high or outstanding natural character,*
- (f) areas or places of significant or outstanding historic heritage,*
- (g) wāhi tapu, wāhi taoka, and areas with protected customary rights, and*
- (h) areas of high recreational and high amenity value, and*

*(2) if it is not possible to avoid locating in the areas listed in (1) above because of the functional or operational needs of the infrastructure manage adverse effects as follows:*

- (a) for nationally or regionally significant infrastructure:*
  - (i) in significant natural areas, in accordance with ECO-P4,*
  - (ii) in natural wetlands, in accordance with the relevant provisions in the NESF,*
  - (iii) in outstanding water bodies, in accordance with LF-P12,*

*(iv) in other areas listed in EIT-INF-P13 (1) above, minimise the adverse effects of the infrastructure on the values that contribute to the area's importance'.*

Contact Energy is concerned that this policy effectively establishes a blanket prevention of activities in areas of significance or higher value. Any project, even one having significant national benefit, will be precluded regardless of the degree of effect (i.e. its significance) or the actual significance of the value being affected.

It also then states that if avoidance "is not possible", then adverse effects are to be managed in accordance with various reference to other provisions of the PORPS.

Contact Energy is concerned that it might always be **possible** for a theoretically feasible proposal to be identified that did not affect one or some of the matters listed in (1) of this policy. This policy means that an alternatives assessment will be necessary to accompany any application if it affects one or more of these areas, and as currently drafted, this alternative assessment would need to occur regardless of the scale of effect on that value or resource.

This is inconsistent with requirements of Schedule 4 of the RMA which requires an alternatives assessment only in certain circumstances. It is also at odds with the National Policy Statement for Renewable Energy ("**NES-REG**") which does not require such a rigid consideration of alternatives for renewable electricity generation activities. An alternative is always 'possible' if it is technically feasible, but it may not be practicable or prudent to undertake due to its cost.

Contact Energy submits that the PORPS needs to provide clear provisions which properly recognise the significant benefits of existing renewable electricity generation activities, and which enable the development of new renewable generation opportunities in the Otago Region. These need to be coupled with provisions that provide a clear assessment pathway by which decision makers can properly evaluate the merits of a proposal. Contact Energy is not seeking an automatic "yes" to a consent proposal for a renewable project. Instead, it is looking to ensure the PORPS, in light of significant case law which gives greater weight to provisions that have more directive wording, does not veto, inadvertently or otherwise, an otherwise meritorious proposal without due consideration.

***Inability to have renewable energy projects considered on their merits***

Contact Energy is particularly concerned that the ecological significance criteria in Appendix 2 to the proposed RPS set a low threshold for land to qualify as a Significant Natural Area ("**SNA**") under policy ECO-P2. Consequently, policies ECO-P3 to ECO-P6 largely prohibit development within SNAs (excepting a small number of activities) regardless of any merits or environmental gains associated with the proposal.

The upshot is that widespread areas of land may be inadvertently and inappropriately classified as SNAs and made subject to significant constraints on use and development. There is no discretion and no requirement for SNA to be mapped first in any planning document in Otago. Every resource consent process after the PORPS becomes operative will need to assess the project's environmental footprint against the Appendix 2 SNA criteria.

This, combined with Appendices 3 and 4 and associated policies, are particularly troubling. Under these appendices, specific classes of impacts on At Risk and Threatened species, or uncommon habitat types, are 'ruled out' for offsetting or compensation at a level that is close to the qualifying benchmark for SNA. In other words, offsetting and compensation are perversely 'ruled out' when even individual specimens of a species of conservation concern or even a part of their habitat will be lost to a development, irrespective of whether the loss may be capable of being offset or compensated to produce a net overall gain. So:

- Under Appendix 3, the **loss of any** individuals of Threatened taxa (other than two kanuka species) rules out any formal offsetting proposal as the basis for a project that cannot otherwise avoid impacting an SNA;
- Under Appendix 4, the **loss of habitat** for any Threatened or At Risk indigenous species rules out any formal compensation as the basis for a project that cannot otherwise avoid impacting an SNA.

Given offsetting is offered in the PORPS as an alternative consenting pathway to avoiding SNA's, ruling out offsetting *because* Threatened or At Risk species are impacted, which may be the reason the area is determined to be an SNA in the first place, makes the whole offsetting regime so unworkable as to be nugatory.

By virtue of EN-P6 (and other provisions in the PORPS) these provisions are all currently applicable to a renewable generation development. As noted above Contact Energy submits that this is not appropriate and fails to recognise the reality that large scale renewable generation activities will inevitably affect natural and, at times, valued resources. The constraints and scale of renewable generation activities often mean it will not always be possible to locate, design and manage these activities such that adverse effects on SNA (for example) are all avoided, and limits met, particularly in natural environments. As recognised in the National Policy Statement for Renewable Electricity Generation 2011 ("**NPS-REG**"), effects from such proposals will often need to be offset or compensated. The limits set out in Appendices 3 and 4 however pose a significant risk that new or re-consenting existing renewable electricity generation proposals will not have access to these tools and will be un-consentable.

#### ***Summary of Contact's position on the PORPS***

In summary Contact Energy is seeking that the PORPS:

- Properly recognises that the output, capacity, flexibility, reliability and efficiency of the electricity and energy system in Otago is critical to the wellbeing of the Otago Region and New Zealand.
  - Recognises the criticality of the reliance on new and existing renewable energy resources to achieve the electrification of the economy.
  - Ensures the critical need to develop and operate new and existing renewable electricity generation is recognised and enabled within the PORPS.
  - Suitably recognises existing physical renewable energy generation facilities and assets that exist within the Otago Region. These assets should be suitably recognised, provided for and protected within the higher order planning documents for the region.
  - Recognises the significant potential for further development of renewable electricity generation facilities within the Otago region and enables a pathway for these to be appropriately considered under a workable and appropriately balanced planning framework.
  - Enables practical means for offsetting and compensation to be considered as part of the broader outcome-based approach to consenting renewable electricity projects.
5. Various other amendments, set out in **Appendix A**, form part of Contact Energy's submission on the PORPS.
6. Contact Energy does wish to be heard in support of its submission. If others make a similar submission, Contact Energy will consider presenting a joint case with them at any hearing.

Signature:



**Person authorised to sign on behalf of submitter**

3 September 2021

Electronic address for Service: [chris.drayton@contactenergy.co.nz](mailto:chris.drayton@contactenergy.co.nz)

Telephone: 027 511 0365



Postal address: PO Box 10742, Wellington 6143  
Level 2, Harbour City Tower  
29 Brandon Street  
Wellington, New Zealand

Contact person: Chris Drayton, Specialist – Consenting and Resource Management

**Note to person making submission**

If you are making a submission to the Environmental Protection Authority, you should use form 16B. If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):

- it is frivolous or vexatious:
- it discloses no reasonable or relevant case:
- it would be an abuse of the hearing process to allow the submission (or the part) to be taken further:
- it contains offensive language:
- it is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

## APPENDIX A

### SPECIFIC SUBMISSION POINTS BY CONTACT ENERGY – PROPOSED OTAGO REGIONAL POLICY STATEMENT 2021

PROVISION	POSITION	REASONS	RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought)
<b>DEFINITIONS</b>			
<i>Regionally Significant Infrastructure</i>	Support	Contact Energy supports the recognition of renewable electricity generation facilities, and the significance of these within a regional context, in this definition.	Retain this definition.
<i>Nationally Significant infrastructure</i>	Support	Contact Energy supports the recognition of renewable electricity generation facilities, and the significance of these within a national context, in this definition.	Retain this definition.
<b>ISSUES</b>			
<b>SRMR-12 – Climate Change is likely to impact our economy and environment</b>	Support in part	Contact Energy supports the recognition of climate change as a significant resource management issue within the Otago region, however it needs to go further by acknowledging the critical part renewable energy facilities have to play in achieving NZ’s decarbonisation requirements. Otago already has significant renewable energy infrastructure and facilities and there are opportunities for further development.	Amend the issue statement to recognise the critical role renewable energy facilities have to play in achieving New Zealand’s climate change and decarbonisation requirements.
<b>SRMR-19 – Otago lakes are subject to pressures from tourism and population growth</b>	Support in part	Contact Energy supports this issue statement in so far as it recognises that the Otago-lakes area provides significant renewable energy for use in Otago and beyond, and that access to such water is necessary for these purposes. Contact Energy is however concerned that there are broad statements such as “natural features and landscape values are also adversely impacted by...energy production” and “[energy production]...puts at risk the environment highly prized by residents and visitors”. There is no acknowledgement within this issue statement for instance, that Lake Dunstan was artificially created for energy production purposes and that this has been influential in the development of the surrounding area as result. There is also no acknowledgement within the statement that from an environmental perspective, hydro development and other renewable energy resources have enormous positive effects on the environment (e.g. providing low cost, secure and renewable energy; decarbonisation), and can become visitor attractions themselves.	Amend the issue statement so that it balances the issues more accurately as follows:  <i>Natural features and landscape values <del>are also</del> can be adversely impacted by tourism and urban growth, and energy production.</i>  <u><i>A number of hydroelectric power schemes are located within the Otago Region. Some of these have directly influenced the surrounding environment in which they operate. These assets are significant to the region in providing renewable electricity generation, contributing to economic development and also attracting visitors to the area.</i></u>
<b>IM INTEGRATED MANAGEMENT</b>			
<b>IM-O4- Climate Change</b>  <i>Otago’s communities, including Kāi Tahu, understand what climate change means for their future, and climate change responses in the region, including adaptation and mitigation actions, are aligned with national level climate change responses and are recognised as integral to achieving the outcomes sought by this RPS.</i>	Support in part	Contact Energy supports the recognition of climate change as a significant issue within the region, and that it needs to be aligned with national response. However, Contact Energy is concerned that the focus of provisions throughout the PORPS is on the impacts of climate change, and there is not sufficient or similar focus on the available solutions. Renewable energy assets and ongoing development and protection of these is critical to achieving the decarbonisation requirements of the Government. The RPS needs to recognise that the Otago Region will have (and already has) a key part to play in this.	Amend this objective or develop new region wide provisions to recognise that the development and operation of new and existing renewable energy facilities will also be a critical component in achieving New Zealand climate change responses.

PROVISION	POSITION	REASONS	RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought)
<p><b>IM-P1- Integrated Approach</b></p> <p><i>The objectives and policies in this RPS form an integrated package, in which:</i></p> <p>(1) <i>All activities are carried out within the environmental constraints of this RPS,</i></p> <p>(2) <i>All provisions relevant to an issue or decision must be considered.</i></p> <p>(3) <i>if multiple provisions are relevant, they must be considered together and applied according to the terms in which they are expressed, and</i></p> <p>(4) <i>notwithstanding the above, all provisions must be interpreted and applied to achieve the integrated management objectives IM-O1 to IM-O4</i></p>	Oppose in part	<p>Contact supports an integrated approach. However, read as a whole the PORPS has much stronger protectionist type provisions ('environmental constraints') which would have a trumping effect when read together with the other provisions in the plan which are (slightly) more enabling. It requires that 'all' activities must be carried out within the environmental constraints of the RPS. Contact is concerned that many of these constraints will prevent effective pathways for developing new renewables, and threaten existing ones. The outcome in relation to renewable energy activities will be to foreclose consideration of options for renewable electricity that are needed to meet NZ's climate change commitments.</p>	
<p><b>IM-P2- Decision Priorities</b></p> <p><i>Unless expressly stated otherwise, all decision making under this RPS shall:</i></p> <p>1. <i>Firstly, secure the long term life support capacity and mauri of the natural environment,</i></p> <p>2. <i>Secondly, promote the health and safety needs of people, and</i></p> <p>3. <i>Thirdly, safeguard the ability of people and communities to provide for their social, economic and cultural well being now and in the future.</i></p>	Oppose	<p>Contact Energy notes that this policy has been largely derived from the National Policy Statement for Freshwater Management 2020. Applying this hierarchy more broadly and as the mandatory decision making framework within Otago is likely to cause implementation difficulties as in certain circumstances there will need to be a more nuanced approach taken to resource management.</p> <p>For instance, express recognition that activities that combat climate change achieve all three of these priorities is appropriate and needs to inform the policies and objectives in the PORPS.</p>	Delete or otherwise make specific reference to the importance of renewable electricity generation in achieving these priorities.
<p><b>IM-P9 – Community Response to Climate Change Impacts</b></p> <p><i>By 2030 Otago's communities have established responses for adapting to the impacts of climate change, are adjusting their lifestyles to follow them, and are reducing their greenhouse gas emissions to achieve net-zero carbon emissions by 2050.</i></p>	Support	<p>Contact Energy supports the recognition of climate change as a significant resource management issue within Otago. However, there is no clear recognition of the role that low cost, abundant renewable energy generation will need to play in assisting to achieve New Zealand's decarbonisation goals; adjusting peoples lifestyles and activities; and reducing their greenhouse gas emissions (by for instance substituting current fossil-fuel uses with electricity for peoples' energy and transport needs)</p>	Add new policies or clauses to recognise that renewable electricity generation activities are a critical part of achieving New Zealand's decarbonisation goals, and the community response to climate change.
<p><b>IM-P12 – Contravening environmental bottom lines for climate change mitigation</b></p> <p><i>Where a proposed activity provides or will provide enduring regionally or nationally significant mitigation of climate change impacts, with commensurate benefits for the well-being of people and communities and the wider environment, decision makers may, at their discretion, allow non compliance with an environmental bottom line set in any policy or method of this RPS only if they are satisfied that:</i></p> <p>(1) <i>the activity is designed and carried out to have the smallest possible environmental impact consistent with its purpose and functional needs,</i></p> <p>(2) <i>the activity is consistent and coordinated with other regional and national climate change mitigation activities,</i></p> <p>(3) <i>adverse effects on the environment that cannot be avoided, remedied, or mitigated are offset, or compensated for if an offset is not possible, in accordance with any specific criteria for using offsets or compensation, and ensuring that any offset is:</i></p>	Support in part	<p>This provision is critically important in determining whether in Otago the PORPS will enable or constrain the electrification of the economy that is required.</p> <p>Contact Energy supports the intent of this policy. It appears to acknowledge the reality that renewable electricity development and operation requires large scale access to and creates effects upon natural environments and resources, such as water, natural areas, landscapes and in some cases native plants and animals. Such developments are not 'effects-free' and are not always able to avoid, protect and enhance the natural environment, or fully maintain natural ecological functioning and integrity, particularly at a localised scale. It is important to realise that where the PORPS establishes rigid environmental limits or prioritises avoidance, it would otherwise instantly make some renewable options un-consentable in the Otago Region, irrespective of their overall climate change or other environmental merits.</p> <p>Contact Energy considers that the current drafting of this policy is too constraining as it contains qualifiers, constraints and limits (including in</p>	<p>Amend the policy as follows:</p> <p><i>Where a proposed activity provides or will provide enduring regionally or nationally significant mitigation of climate change impacts <u>or assists in achieving national climate change obligations</u>, with commensurate benefits for the well-being of people and communities and the wider environment, decision makers may, <del>at their discretion</del>, allow non compliance with an environmental bottom line set in any policy or method of this RPS <del>only</del> if they are satisfied that:</i></p> <p>(1) <i>the activity is designed and carried out to <u>appropriately manage its</u> <del>have the smallest possible</del> environmental impact consistent with its purpose and functional needs,</i></p> <p>(2) <i>the activity is consistent <del>and coordinated</del> with other regional and national climate change mitigation activities,</i></p> <p>(3) <i>adverse effects on the environment that cannot be avoided, remedied, or mitigated are offset, or compensated for if an offset is not possible, <del>in accordance with any specific criteria</del></i></p>

PROVISION	POSITION	REASONS	RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought)
<p>(a) undertaken where it will result in the best ecological outcome,</p> <p>(b) close to the location of the activity, and</p> <p>(c) within the same ecological district or coastal marine biogeographic region,</p> <p>(4) the activity will not impede either the achievement of the objectives of this RPS or the objectives of regional policy statements in neighbouring regions, and (5) the activity will not contravene a bottom line set in a national policy statement or national environmental standard.</p>		<p>relation to offsetting and compensation) that are set too restrictively, too subjectively, meaning its underlying policy thrust will become practically unachievable.</p>	<p><del>for using offsets or compensation, and ensuring that any offset is:</del></p> <p><del>(a) undertaken where it will result in the best ecological outcome,</del></p> <p><del>(b) close to the location of the activity, and</del></p> <p><del>(c) within the same ecological district or coastal marine biogeographic region,</del></p> <p><del>(4) the activity will not impede either the achievement of the objectives of this RPS or the objectives of regional policy statements in neighbouring regions, and (5) the activity will not contravene a bottom line set in a national policy statement or national environmental standard.</del></p>
<p><b>IM-P14- Human Impact</b></p> <p>Preserve opportunities for future generations by:</p> <ol style="list-style-type: none"> <li>Identifying limits to both growth and adverse effects of human activities beyond which the environment will be degraded,</li> <li>requiring that activities are established in places, and carried out in ways, that are within those limits and are compatible with the natural capabilities and capacities of the resources they rely on, and</li> <li>regularly assessing and adjusting limits and thresholds for activities over time in light of the actual and potential environmental impacts.</li> </ol>	Oppose	<p>Contact Energy opposes the uncertainty that is inherent within the drafting of this policy. There is no certainty provided within the RPS as to what is meant by the term “limits” or what is “degraded” and how these are intended to be developed or implemented. For example, are these “limits” intended to be used as consenting triggers, or are they intended to act as “environmental limits” or bottom lines?</p>	Delete.
<b>LAND AND FRESHWATER</b>			
<p><b>LF-VM-O2 – Clutha Mata-au FMU vision</b></p> <p>In the Clutha Mata-au FMU:</p> <ol style="list-style-type: none"> <li>management of the FMU recognises that: <ul style="list-style-type: none"> <li>(a) the Clutha Mata-au is a single connected system ki uta ki tai, and</li> <li>(b) the source of the wai is pure, coming directly from Tawhirimatea to the top of the mauka and into the awa,</li> </ul> </li> <li>fresh water is managed in accordance with the LF-WAI objectives and policies,</li> <li>the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,</li> <li>water bodies support thriving mahika kai and Kāi Tahu whānui have access to mahika kai,</li> <li>indigenous species migrate easily and as naturally as possible along and within the river system,</li> <li>the national significance of the Clutha hydro-electricity generation scheme is recognised,</li> <li>in addition to (1) to (6) above:</li> </ol>	Oppose in part	<p>Contact Energy’s significant hydroelectric generation assets are located within the Clutha Mata-au FMU. Contact Energy therefore supports the recognition of this important and nationally significant scheme within this objective, as well as nearly all of the environmental goals outlined in the vision, and in particular, water quality and the relationship of Kāi Tahu with the awa. The Clutha Hydro Scheme contributes significantly to economic and social wellbeing of all New Zealanders by providing plentiful, low cost, carbon-free, non-polluting electricity generation. On a more local and regional basis the scheme has provided employment and contributed to the growth and development of the area (e.g. the townships that have developed around the lake edges of Cromwell). The schemes and hydro lakes also provide /facilitate tourism and recreational activities in the area (e.g. the new cycle track along Lake Dunstan, and boating on the hydro lakes that have been created).</p> <p>Contact Energy is therefore concerned that there appears to be one or two unrealistic requirements within this provision and others of the PORPS to restore ‘natural’ or ‘original’ processes which is at odds with the impact the Clutha Hydro Scheme has had. Clause 5 seeks that indigenous species migrate easily and <b>as naturally as possible</b> along and within the river system. Clause 7 seeks that water flows in the Dunstan Rohe, sustain and wherever possible restore the <b>natural form and function of main stem and tributaries to support Kai Tahu values and practices</b>, and these outcomes are to occur by 2045 within the Dunstan Rohe.</p>	<p>Amend this objective as follows:</p> <p>In the Clutha Mata-au FMU:</p> <ol style="list-style-type: none"> <li>management of the FMU recognises that: <ul style="list-style-type: none"> <li>(a) the Clutha Mata-au is a single connected system ki uta ki tai, and</li> <li>(b) the source of the wai is pure, coming directly from Tawhirimatea to the top of the mauka and into the awa,</li> </ul> </li> <li>fresh water is managed in accordance with the LF-WAI objectives and policies,</li> <li>the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,</li> <li>water bodies support thriving mahika kai and Kāi Tahu whānui have access to mahika kai,</li> <li><u>effective migration of indigenous species migrate easily and as naturally as possible along and within the river system is maintained or where practicable improved,</u></li> <li>the national <u>and regional</u> significance of the Clutha hydro-electricity generation scheme is recognised, <u>maintained and protected,</u></li> </ol>

PROVISION	POSITION	REASONS	RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought)
<p>(a) in the Upper Lakes rohe, the high quality waters of the lakes and their tributaries are protected, recognising the significance of the purity of these waters to Kāi Tahu and to the wider community,</p> <p>(b) in the Dunstan, Manuherehia and Roxburgh rohe:</p> <p>(i) flows in water bodies sustain and, wherever possible, restore the natural form and function of main stems and tributaries to support Kāi Tahu values and practices, and</p> <p>(ii) innovative and sustainable land and water management practices support food production in the area and reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact, and</p> <p>(iii) sustainable abstraction occurs from main stems or groundwater in preference to tributaries,</p> <p>(c) in the Lower Clutha rohe:</p> <p>(i) there is no further modification of the shape and behaviour of the water bodies and opportunities to restore the natural form and function of water bodies are promoted wherever possible,</p> <p>(ii) the ecosystem connections between freshwater, wetlands and the coastal environment are preserved and, wherever possible, restored,</p> <p>(iii) land management practices reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact, and</p> <p>(iv) there are no direct discharges of wastewater to water bodies, and</p> <p>(8) the outcomes sought in (7) are to be achieved within the following timeframes:</p> <p>(a) by 2030 in the Upper Lakes rohe,</p> <p>(b) by 2045 in the Dunstan, Roxburgh and Lower Clutha rohe, and</p> <p>(c) by 2050 in the Manuherehia rohe</p>		<p>This fails to reflect the reality that while the dams were put in place to operate efficiently over a very long intergenerational timeframe this 'run of river' scheme has significantly altered the natural form and function of parts of the awa, including interfering with the natural migration of native fish species. Contact works hard to facilitate the passage of tuna and kanakana both up and down the Clutha Mata-Au, but its trap and transfer activities for these species could not be considered 'natural'. While restoration of natural processes and form is a laudable goal, Contact Energy submits that in all cases, particularly with respect to the large-scale hydro dams in Otago, this may not be feasible or a necessary requirement and may result in significant and unforeseen adverse effects on a local, regional and national scale.</p>	<p>(7) in addition to (1) to (6) above:</p> <p>(a) in the Upper Lakes rohe, the high quality waters of the lakes and their tributaries are protected, recognising the significance of the purity of these waters to Kāi Tahu and to the wider community,</p> <p>(b) in the Dunstan, Manuherehia and Roxburgh rohe:</p> <p>(i) flows in water bodies <del>sustain and, wherever possible, restore the natural form and function of main stems and tributaries to support Kāi Tahu values and practices, and</del></p> <p>(ii) innovative and sustainable land and water management practices support food production in the area and reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact, and</p> <p>(iii) sustainable abstraction occurs from main stems or groundwater in preference to tributaries,</p> <p>(c) in the Lower Clutha rohe:</p> <p>(i) there is no further modification of the shape and behaviour of the water bodies and opportunities to restore the natural form and function of water bodies are promoted wherever possible,</p> <p>(ii) the ecosystem connections between freshwater, wetlands and the coastal environment are preserved and, wherever possible, restored,</p> <p>(iii) land management practices reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact, and</p> <p>(iv) there are no direct discharges of wastewater to water bodies,</p> <p>and</p> <p>(8) the outcomes sought in (7) are to be achieved within the following timeframes:</p> <p>(a) by 2030 in the Upper Lakes rohe,</p> <p>(b) by 2045 in the Dunstan, Roxburgh and Lower Clutha rohe, and</p> <p>(c) by 2050 in the Manuherehia rohe</p>
<p><b>LF-FW-08 – Fresh Water</b></p> <p>In Otago's water bodies and their catchments:</p> <p>(1) the health of the wai supports the health of the people and thriving mahika kai,</p> <p>(2) water flow is continuous throughout the whole system,</p>	<p>Oppose in part</p>	<p>Similar to the points made directly above, Contact Energy supports nearly all of the environmental goals outlined in the vision, and in particular, water quality and thriving mahika kai. However, it is concerned that this provision seeks to achieve outcomes which cannot be practicably achieved within the Clutha Mata-au FMU. For example, clause 4 of this objective seeks that native fish can migrate "as easily and as naturally as possible". "As possible" is a very high threshold and arguably achieving natural migration is possible in all circumstances by avoiding, or at its extreme removing an existing fish migration impediment such as a dam</p>	<p>Amend this objective so that it seeks to provide the best practicable option for fish passage within Otago's water bodies or achieves consistency with the NPS-FW with regard to fish passage requirements.</p>

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<p>(3) the interconnection of fresh water (including groundwater) and coastal waters is recognised,</p> <p>(4) native fish can migrate easily and as naturally as possible and taaka species and their habitats are protected, and</p> <p>(5) the significant and outstanding values of Otago's outstanding water bodies are identified and protected.</p>		<p>structure. Contact works hard to facilitate the effective passage of tuna and kanakana both up and down the Clutha Mata-Au, but its trap and transfer activities for these species could not be considered 'natural'. This requirement also goes further than the NPS-FW which does not require natural migration of indigenous fish species and instead seeks to ensure the passage of fish is <u>maintained, or is improved</u>, by instream structures.</p>	
<p><b>LF-FW-P9 – Protecting Natural Wetlands</b></p> <p>Protect natural wetlands by:</p> <p>1. avoiding a reduction in their values or extent unless:</p> <p>(a) the loss of values or extent arises from:</p> <ul style="list-style-type: none"> <li>i. the customary harvest of food or resources undertaken in accordance with tikata Maori,</li> <li>ii. restoration activities,</li> <li>iii. scientific research,</li> <li>iv. the sustainable harvest of sphagnum moss,</li> <li>v. the construction or maintenance of wetland utility structures,</li> <li>vi. the maintenance of operation of specific infrastructure, or other infrastructure,</li> <li>vii. natural hazards works, or</li> </ul> <p>(b) the Regional Council is satisfied that:</p> <ul style="list-style-type: none"> <li>i. the activity is necessary for the construction or upgrade of specified infrastructure,</li> <li>ii. the specified infrastructure will provide significant natural or regional benefits,</li> <li>iii. there is a functional need for the specified infrastructure in that location,</li> <li>iv. the effects of the activity on indigenous biodiversity are managed by applying either ECO-P3 or ECO-P6 (whichever is applicable), and</li> <li>v. the other effects of the activity (excluding those managed under (1)(b)(iv)) are managed by applying the effects management hierarchy, and</li> </ul> <p>2. not granting resource consents for activities under (1)(b) unless the Regional Council is satisfied that:</p> <p>(a) the application demonstrates how each step of the effects management hierarchies in (1)(b)(iv) and (1)(b)(v) will be applied to the loss of values or extent of the natural wetland, and</p> <p>(b) any consent is granted subject to conditions that apply for the effects management hierarchies in (1)(b)(iv) and (1)(b)(v).</p>	<p>Support in part</p>	<p>Contact Energy submits that this policy is generally consistent with the NPSFW with respect to wetland management in New Zealand, however it is concerned with the references to ECO-P3 and ECO-P6 within this policy. As outlined in submissions below, Contact Energy is concerned that the limits as to how and when biodiversity offsetting and compensation can be applied under ECO-P3, ECO-P6 and consequently APP 3 and APP4 are likely to be quite broad reaching and as a result mean that a number of development proposals are not able to work through the effects management hierarchy. Avoidance of effects will be the fall back outcome in a number of circumstances.</p>	<p>Amend this policy so that the offsetting and compensation limits with regard to wetlands are consistent with the NPSFM.</p>

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<p><b>LF-FW-P12 – Protecting Outstanding Water Bodies</b></p> <p><i>The significant and outstanding values of outstanding water bodies are:</i></p> <p>(1) <i>identified in the relevant regional and district plans, and</i></p> <p>(2) <i>protected by avoiding adverse effects on those values.</i></p>	Oppose	<p>Contact Energy is concerned the requirement to “protect” and “avoid” adverse effects sets much too high a bar. Avoid means to “prevent the occurrence of” which could be construed as meaning the activity or impact cannot proceed. Protecting the values of outstanding water bodies which is required by the NPSFM does not necessarily mean avoiding the activity in every circumstance.</p>	<p>Amend this policy to achieve consistency with the NPSFM as follows:</p> <p><i>The significant and outstanding values of outstanding water bodies are:</i></p> <p><del>(1) identified in the relevant regional and district plans, and</del></p> <p><del>(2) maintained or protected by avoiding adverse effects on those values.</del></p>
<p><b>LF-FW-P13 – Preserving Natural Character</b></p> <p><i>Preserve the natural character of lakes and rivers and their beds and margins by:</i></p> <p>(1) <i>avoiding the loss of values or extent of a river, unless:</i></p> <p style="padding-left: 20px;"><i>(a) there is a functional need for the activity in that location, and</i></p> <p style="padding-left: 20px;"><i>(b) the effects of the activity are managed by applying:</i></p> <p style="padding-left: 40px;"><i>(i) for effects on indigenous biodiversity, either ECO-P3 or ECO-P6 (whichever is applicable), and</i></p> <p style="padding-left: 40px;"><i>(ii) for other effects, the effects management hierarchy,</i></p> <p>(2) <i>not granting resource consent for activities in (1) unless Otago Regional Council is satisfied that:</i></p> <p style="padding-left: 20px;"><i>(a) the application demonstrates how each step of the effects management hierarchies in (1)(b) will be applied to the loss of values or extent of the river, and</i></p> <p style="padding-left: 20px;"><i>(b) any consent is granted subject to conditions that apply the effects management hierarchies in (1)(b),</i></p> <p>(3) <i>establishing environmental flow and level regimes and water quality standards that support the health and well-being of the water body,</i></p> <p>(4) <i>wherever possible, sustaining the form and function of a water body that reflects its natural behaviours,</i></p> <p>(5) <i>recognising and implementing the restrictions in Water Conservation Orders,</i></p> <p>(6) <i>preventing the impounding or control of the level of Lake Wanaka,</i></p> <p>(7) <i>preventing modification that would reduce the braided character of a river, and</i></p> <p>(8) <i>controlling the use of water and land that would adversely affect the natural character of the water body.</i></p>	Oppose in part	<p>Contact Energy is concerned with the references to ECO-P3 and ECO-P6 within this policy. As outlined in submissions below, Contact Energy is concerned that the limits as to how and when biodiversity offsetting and compensation can be applied under ECO-P3, ECO-P6 and consequently APP 3 and APP4 are likely to be quite broad reaching and as a result mean that a number of sensible, environmentally responsible development proposals are not able to work through the effects management hierarchy. Avoidance of effects will be the fall back outcome in a number of circumstances.</p> <p>Contact Energy submits that it would be more appropriate for the policy to only reference the effects management hierarchy as it is set out in the NPSFM with regard to freshwater resources and their management in the region.</p> <p>Contact Energy is also concerned that this policy seeks to sustain (or restore) the form and function of a water body that reflects its natural behaviours. Clause (4) seeks for this to occur “wherever possible”. It is always “possible” to achieve this by not allowing the activity as the preferred option.</p>	<p>Amend this policy as follows:</p> <p><i>Preserve the natural character of lakes and rivers and their beds and margins by:</i></p> <p>(1) <i>avoiding the loss of values or extent of a river, unless:</i></p> <p style="padding-left: 20px;"><i>(a) there is a functional need for the activity in that location, and</i></p> <p style="padding-left: 20px;"><i>(b) the effects of the activity are managed by applying:</i></p> <p style="padding-left: 40px;"><del><i>(i) for effects on indigenous biodiversity, either ECO-P3 or ECO-P6 (whichever is applicable), and</i></del></p> <p style="padding-left: 40px;"><del><i>(ii) for other effects, the effects management hierarchy,</i></del></p> <p>(2) <i>not granting resource consent for activities in (1) unless Otago Regional Council is satisfied that:</i></p> <p style="padding-left: 20px;"><i>(a) the application demonstrates how each step of the effects management hierarchies in (1)(b) will be applied to the loss of values or extent of the river, and</i></p> <p style="padding-left: 20px;"><i>(b) any consent is granted subject to conditions that apply the effects management hierarchies in (1)(b),</i></p> <p>(3) <i>establishing environmental flow and level regimes and water quality standards that support the health and well-being of the water body,</i></p> <p><del>(4) wherever possible, sustaining the form and function of a water body that reflects its natural behaviours,</del></p> <p>(5) <i>recognising and implementing the restrictions in Water Conservation Orders,</i></p> <p>(6) <i>preventing the impounding or control of the level of Lake Wanaka,</i></p> <p>(7) <i>preventing modification that would reduce the braided character of a river, and</i></p> <p>(8) <i>controlling the use of water and land that would adversely affect the natural character of the water body.</i></p>
<p><b>LF-FW-P14 – Restoring Natural Character</b></p> <p><i>Where the natural character of lakes and rivers and their margins has been reduced or lost, promote actions that:</i></p> <p>(1) <i>restore a form and function that reflect the natural behaviours of the water body,</i></p>	Oppose in part	<p>As set out above, Contact Energy is concerned that there is an emphasis within the PORPS and this provision which seeks to restore freshwater resources to their ‘natural’ or ‘original’ condition. While a laudable goal, Contact Energy seeks that the PORPS also suitably recognises that in some circumstances, restoration of the original or (entirely) natural processes may not be feasible and will result in significant adverse effects</p>	<p>Amend this policy as follows:</p> <p><i>Where the natural character of lakes and rivers and their margins has been reduced or lost, promote actions that:</i></p> <p><del>(1) restore a form and function that reflect the natural behaviours of the water body,</del></p>



PROVISION	POSITION	REASONS	RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought)
<p>(2) improve water quality or quantity where it is degraded,</p> <p>(3) increase the presence, resilience and abundance of indigenous flora and fauna, including by providing for fish passage within river systems,</p> <p>(4) improve water body margins by naturalising bank contours and establishing indigenous vegetation and habitat, and</p> <p>(5) restore water pathways and natural connectivity between water systems.</p>		<p>– not least on the generation of renewable electricity and the mitigation of climate change.</p> <p>This fails to reflect the reality that while the Clutha Hydro Scheme was put in place to operate efficiently over a very long intergenerational timeframe this ‘run of river’ scheme has significantly altered the natural form and function of parts of the awa, including interfering with the natural migration of native fish species. While restoration of natural processes and form is a laudable goal, Contact Energy submits that in all cases, particularly with respect to the large-scale hydro dams in Otago, this may not be feasible or a necessary requirement and may result in significant and unforeseen adverse effects on a local, regional and national scale.</p>	<p>(2) improve water quality or quantity where it is degraded,</p> <p>(3) increase the presence, resilience and abundance of indigenous flora and fauna, including by providing for fish passage within river systems <u>where appropriate</u>,</p> <p>(4) improve water body margins by naturalising bank contours and establishing indigenous vegetation and habitat, and</p> <p>(5) restore water pathways and <del>natural</del> connectivity between water systems</p>
<b>ECO- Ecosystems and Indigenous Biodiversity</b>			
<p><b>ECO-P2- Identifying significant natural areas and taoka</b></p> <p>Identify:</p> <p>(1) the areas and values of significant natural areas in accordance with APP2, and</p> <p>(2) indigenous species and ecosystems that are taoka in accordance with ECO-M3.</p>	Oppose in part	<p>Contact Energy understands the intent of this policy, however, it is concerned that policy combined with the criteria in APP2 will result in a large portion of the Otago region being identified as an SNA. This policy does not require any areas to be clearly mapped or scheduled in any lower order plans, instead it requires SNA to be identified in accordance with the criteria set out in APP2. This approach lacks necessary precision and greater certainty would be achieved if a regional scale assessment was completed to clearly identify SNA areas using sound and rationale criteria.</p> <p>Contact Energy is concerned that the threshold for qualifying for an SNA is too low (refer to APP2 criteria) and the threshold for protecting an SNA is too high (ECO Objectives and Policies generally).</p>	<p>Delete ECO-P2 or amend as follows:</p> <p><del>Identify:</del></p> <p><del>(1) the areas and values of significant natural areas in accordance with APP2, and</del></p> <p><del>(2) indigenous species and ecosystems that are taoka in accordance with ECO-M3.</del></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>
<p><b>ECO-P4 – Provision for new activities</b></p> <p>Maintain Otago’s indigenous biodiversity by following the sequential steps in the effect management hierarchy set out in ECO-P6 when making decisions on plans, applications for resource consents or notices of requirements for the following activities in significant natural areas, or where they may adversely affect indigenous species and ecosystems that are taoka:</p> <p>(1) The development or upgrade of nationally and regionally significant infrastructure that has a functional or operational need to locate within the relevant significant natural area(s) or where they may adversely affect indigenous species or ecosystems that are taoka.</p> <p>(2) the development of papakaika, marae and ancillary facilities associated with customary activities on Maori land,</p> <p>(3) the use of Maori land in a way that will make a significant contribution to enhancing the social, cultural or economic wellbeing of takata whenua,</p>	Support in part	<p>Contact Energy supports the provision within the policy which enables consideration of consent applications for the development or upgrading of nationally and regionally significant infrastructure despite their potential effect on SNAs. This is absolutely crucial to ensure all the effects of an activity, including the positive effects, are considered in the round to deliver sound, environmentally sustainable decisions and maintain or even enhance Otago’s current biodiversity. Contact Energy does however have some concerns with ECO-P6 and its reference to APP3 and APP4. The reasons for this are set out below.</p>	<p>Retain this policy as it enables a consenting pathway for nationally and regionally significant infrastructure developments within SNAs. However amendments to ECO-P6 and APP3 and APP4 are required to make the pathway effective.</p>

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<p>(4) activities that are for the purpose of protecting, restoring or enhancing a significant natural area or indigenous species or ecosystems that are taoka, or</p> <p>(5) activities that are for the purpose of addressing a severe and immediate risk to public health and safety.</p>			
<p><b>ECO-P6 – Maintaining indigenous biodiversity</b></p> <p>Maintain Otago’s indigenous biodiversity (excluding the coastal environment and areas managed under ECO-P3) by applying the following biodiversity effects management hierarchy in decision making on applications for resource consents and notices of requirement:</p> <p>(1) Avoid adverse effects as the first priority,</p> <p>(2) Where adverse effects demonstrably cannot be avoided, they are remedied,</p> <p>(3) Where adverse effects demonstrably cannot be completely avoided or remedied, they are mitigated,</p> <p>(4) Where there are residual adverse effects after avoidance, remediation and mitigation, then the residual adverse effects are offset in accordance with APP3, and</p> <p>(5) if biodiversity offsetting of residual adverse effects is not possible, then:</p> <p>(a) the residual adverse effects are compensated for in accordance with APP4, and</p> <p>(b) if the residual effects cannot be compensated for in accordance with APP4, the activity is avoided.</p>	Oppose in part	<p>Contact Energy generally agrees with the principle of a cascading approach to effects management that has been developed within this policy. However, it submits that when this policy is considered alongside the limits or constraints which are set out in APP3 and APP4 as to when offsetting and compensation are available, the policy becomes unworkable in certain circumstances. APP3 and APP4 contain a set of criteria as to when both offsetting and compensation is not an available method. These criteria are limiting and are written as a bottom line or hard limit. If they are not met the option of offsetting and/or compensation is no longer available to be used as part of any effects management response. In these circumstances the method directs the decision maker back to the first management tier – which is to avoid. For Contact’s sector, this means important renewable energy projects will not be consentable, and the potential environmental benefits of a less restrictive approach to offset and compensation lost.</p> <p>Contact Energy submits that this policy and the way it draws on APP3 and APP4 is inconsistent with national direction such as the Draft NPSIB and NPSFW as to when and under what circumstances the full suite of the effects management methods can be applied. It is also inconsistent with section 104(1)(ab) of the RMA which requires a decision maker to have regard to <u>any</u> measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.</p>	Amendments to APP3 and APP4 are also necessary as set out below.
<p><b>APP2 – Significance Criteria</b></p> <p>An area is considered to be a significant natural area if it meets any one or more of the criteria below:</p> <p>(a) An area that is an example of an indigenous vegetation type or habitat that is typical or characteristic of the original natural diversity of the relevant ecological district or coastal marine biogeographic region. This may include degraded examples of their type or represent all that remains of indigenous vegetation and habitats of indigenous fauna in some areas.</p> <p>(b) An indigenous marine ecosystem (including both intertidal and sub-tidal habitats, and including both faunal and floral assemblages) that makes up part of at least 10% of the natural extent of each of Otago’s original marine ecosystem types and reflecting the environmental gradients of the region.</p> <p>(c) An indigenous marine ecosystem, or habitat of indigenous marine fauna (including both intertidal and sub-tidal habitats, and including both faunal and floral components), that is characteristic or typical of the natural marine ecosystem diversity of Otago.</p> <p>(d) An area that supports:</p>	Oppose in part	<p>As noted in submission points above on policies ECO-P2 and ECO-P4, Contact Energy considers that the broad framing of the significance criteria for indigenous biodiversity in Appendix 2 (“APP2”) will likely require large areas of Otago to be classified as Significant Natural Areas - potentially including highly modified areas that cannot sensibly be so classified. This policy suite results in the threshold for qualifying for an SNA to be too low and the threshold for protecting an SNA too high.</p> <p>APP2 clauses (d) (Rarity); (f) (Distinctiveness) and (g)(iii) (Ecological context) require the following to be classified as SNAs:</p> <ul style="list-style-type: none"> <li>- Any areas that “support” indigenous flora/fauna.</li> <li>- Any area that “provides habitat for” indigenous flora/fauna.</li> <li>- Any areas that are “...important for indigenous fauna during some part of their life cycle, either regularly or on an irregular basis, e.g., for feeding, resting, nesting, breeding, spawning or refuges from predation”</li> </ul> <p>The terms “support”, “habitat”, “important for” are open to interpretation as they are not defined in the proposed RPS.</p>	<p>Amend <b>Appendix 2 – Significance criteria for indigenous biodiversity</b> to ensure the significance criteria for indigenous biodiversity are specific and targeted to avoid the inclusion of inappropriate areas within SNAs.</p> <p>Ensure consistency with best practice or national policy direction when finalising this criteria.</p>

PROVISION	POSITION	REASONS	RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought)
<p>(i) <i>An indigenous species that is threatened, at risk, or uncommon, nationally or within an ecological district or coastal marine biogeographic region, or</i></p> <p>(ii) <i>Indigenous vegetation or habitat of indigenous fauna that has been reduced to less than 20% of its former extent nationally, regionally or within a relevant land environment, ecological district, coastal marine biogeographic region or freshwater environment including wetlands, or</i></p> <p>(iii) <i>Indigenous vegetation and habitats within originally rare ecosystems, or</i></p> <p>(iv) <i>The site contains indigenous vegetation or an indigenous species that is endemic to Otago or that are at distributional limits within Otago.</i></p> <p>(e) <i>An area that supports a high diversity of indigenous ecosystem types, indigenous taxa or has changes in species composition reflecting the existence of diverse natural features or gradients.</i></p> <p>(f) <i>An area that supports or provides habitat for:</i></p> <p>(i) <i>Indigenous species at their distributional limit within Otago or nationally, or</i></p> <p>(ii) <i>Indigenous species that are endemic to the Otago region, or</i></p> <p>(h) <i>Indigenous vegetation or an association of indigenous species that is distinctive, of restricted occurrence, or has developed as a result of an unusual environmental factor or combinations of factors.</i></p> <p>(i) <i>The relationship of the area with its surroundings (both within Otago and between Otago and the adjoining regions), including:</i></p> <p>(i) <i>An area that has important connectivity value allowing dispersal of indigenous flora and fauna between different areas, or</i></p> <p>(ii) <i>An area that has an important buffering function that helps to protect the values of an adjacent area or feature, or</i></p> <p>(iii) <i>An area that is important for indigenous fauna during some part of their life cycle, either regularly or on an irregular basis, e.g. for feeding, resting, nesting, breeding, spawning or refuges from predation, or</i></p> <p>(j) <i>A wetland which plays an important hydrological, biological or ecological role in the natural functioning of a river or coastal ecosystem.</i></p>		<p>For example, if any area were found to provide temporary support, resting or hiding places for an indigenous species meeting the criteria of (using the “Rarity” criterion for example) being “...threatened, at risk, or uncommon, nationally or within an ecological district or coastal marine biogeographic region”, APP2 may require urban areas, areas of weed infestation, or even buildings to be classified as SNAs under ECO-P2. This scenario is particularly likely for mobile indigenous species like birds, bats, and insects, which may have a long-range migration pathway.</p> <p>This issue is compounded by the obligation to include areas only occupied temporarily / on an ad hoc basis (e.g., resting or hiding places).</p> <p>Given the foregoing, Contact Energy seeks amendment of the APP2 significance criteria to minimise the risk of inadvertent outcomes from arising through SNA identification processes and management regimes.</p>	
<p><b>APP3 – Criteria for Biodiversity Offsetting</b></p> <p>(1) <i>Biodiversity offsetting is not available if the activity will result in:</i></p> <p>(a) <i>the loss of any individuals of Threatened taxa, other than kānuka (Kunzea robusta and Kunzea serotina), under the New Zealand Threat Classification System (Townsend et al, 2008), or</i></p> <p>(b) <i>reasonably measurable loss within the ecological district to an At Risk-Declining taxon, other than manuka (Leptospermum scoparium), under the New Zealand Threat Classification System (Townsend et al, 2008).</i></p>	Oppose	<p>Contact Energy submits that the effect of APP3 is to unduly limit or even stymie biodiversity offsetting as an available environmental effects management option. Contact acknowledges that the environmental effects of large-scale renewable electricity generation can have significant environmental impacts on biodiversity. Equally it strives to avoid, remedy or mitigate those impacts, and where that isn’t possible, to offset, compensate or otherwise ‘internalise’ the environmental costs and impacts of its activities. Some of these measures can generate significant environmental benefits in terms of pest control, planting, restoration and protection of otherwise vulnerable species and environments,</p>	<p>Remove limits as to when offsetting can be offered in clause (1). Or otherwise align to achieve consistency with national direction via the Draft NPSIB.</p> <p>Amend the offsetting requirements and outcomes so as to achieve consistency with recommended best practice for offsetting and/or national direction via the Draft NPSIB.</p>

PROVISION	POSITION	REASONS	RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought)
....		<p>However, APP3 sets the threshold as to when offsetting can occur too high. This will likely foreclose offsetting as a method even where it is likely to result in significant beneficial ecological or biodiversity outcomes locally or across the Otago Region.</p> <p>The restrictions depart from RMA section 104(1)(ab) which states that a consent authority “must” have regard to:</p> <p><i>“any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity”.</i></p> <p>Furthermore, RMA section 104(1)(b)(iii) requires that a consent authority “must” have regard to any relevant provisions of a National Policy Statement.</p> <p>While not yet operative, the draft NPSIB provides some direction about when consideration of biodiversity offsetting should be precluded from consideration – being circumstances when:</p> <ul style="list-style-type: none"> <li>(i) Residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the indigenous biodiversity affected.</li> <li>(ii) There are no technically feasible or socially acceptable options by which to secure gains within acceptable timeframes.</li> <li>(iii) Effects on indigenous biodiversity are uncertain, unknown or little understood, but potential effects are significantly adverse.</li> </ul> <p>This is far more balanced and likely to give rise to good environmental outcomes through offsetting, while avoiding the loss of very important or irreplaceable biodiversity.</p> <p>The section 32 report states that APP3 and APP4 align with the relevant Environment Court decisions on similar provisions in the 2019 RPS. Contact Energy notes that this Environment Court drafting of the compensation criteria was considered in the preparation of the Draft NPSIB. The NPSIB discussion document specifically invited stakeholders to consider the Environment Court version as an alternative approach to that which was being promulgated in the Draft NPSIB Appendices 3 and 4. It is understood that this alternative approach was not favoured by the majority of the submitters with most submitters supporting the Draft NPSIB’s approach. It is therefore highly unlikely that these alternative provisions will ultimately be preferred by the Government in its final drafting of the NPSIB.</p> <p>The Environment Court provisions incorporated in APP 3 and 4 have also not provided the precedents for SNA provisions recently developed elsewhere in New Zealand. The West Coast RPS which was made operative in July 2020 aligns more closely to the Draft NPSIB as to when offsetting and compensation proposals are appropriate.</p>	

PROVISION	POSITION	REASONS	RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought)
<p><b>APP4 – Criteria for Biodiversity Compensation</b></p> <p>(1) Biodiversity compensation is not available if the activity will result in:</p> <p>(a) the loss of an indigenous taxon (excluding freshwater fauna and flora) or of any ecosystem type from an ecological district or coastal marine biogeographic region,</p> <p>(b) removal or loss of viability of habitat of a Threatened or At Risk indigenous species of fauna or flora under the New Zealand Threat Classification System (Townsend et al, 2008),</p> <p>(c) removal or loss of viability of a naturally rare or uncommon ecosystem type that is associated with indigenous vegetation or habitat of indigenous fauna, or</p> <p>(d) worsening of the New Zealand Threat Classification System (Townsend et al, 2008) conservation status of any Threatened or At Risk indigenous fauna</p>	Oppose	<p>Contact Energy submits that the effect of APP4 is to unduly limit biodiversity compensation as an available environmental effects management option.</p> <p>APP4 sets the threshold as to when compensation can occur too high. This will likely foreclose compensation as a method even where it is likely to result in significant beneficial ecological or biodiversity outcomes.</p> <p>The section 32 report states that APP3 and APP4 align with the relevant Environment Court decisions on similar provisions in the 2019 RPS. Contact Energy notes that this Environment Court drafting of the compensation criteria was considered in the preparation of the Draft NPSIB. The NPSIB discussion document specifically invited stakeholders to consider the Environment Court version as an alternative approach to that which was being promulgated in the Draft NPSIB Appendices 3 and 4. It is understood that this alternative approach was not favoured by the majority of the submitters with most submitters supporting the Draft NPSIB’s approach. It is therefore highly unlikely that these alternative provisions will ultimately be preferred by the Government in its final drafting of the NPSIB.</p> <p>The Environment Court provisions incorporated in APP 3 and 4 have also not provided the precedents for SNA provisions recently developed elsewhere in New Zealand. The West Coast RPS which was made operative in July 2020 aligns more closely to the Draft NPSIB as to when offsetting and compensation proposals are appropriate.</p>	<p>Remove limits as to when biodiversity compensation can be offered in clause (1). Or otherwise align to achieve consistency with national direction via the Draft NPSIB.</p> <p>Amend the compensation requirements and outcomes so as to achieve consistency with recommended best practice for compensation and/or national direction via the Draft NPSIB.</p>
<b>EIT – ENERGY, INFRASTRUCTURE AND TRANSPORT</b>			
<p><b>EIT-EN-O1 Energy and Social and Economic Well Being</b></p> <p><i>Otago’s communities and economy are supported by renewable energy generation within the region that is safe, secure, and resilient</i></p>	Support	Contact Energy generally supports the intent of this objective as it relates to renewable energy generation. However, when compared to the more directive language used in sections of the PORPS that it may come into conflict with or compete for priority with, it is weak and non-directive and likely to be easily dismissed or overridden.	Retain or strengthen this objective.
<p><b>EIT-EN-O2 – Renewable Energy Generation</b></p> <p><i>The generation capacity of renewable electricity generation activities in Otago:</i></p> <p>(1) is maintained and, if practicable maximised, within environmental limits, and</p> <p>(2) contributes to meeting New Zealand’s national target for renewable electricity generation.</p>	Support in part	<p>Contact Energy is concerned that the wording of this objective is too weak. It does not currently give effect to the NPS-REG as it does not protect generation capacity, enable increased generation opportunities or refer to climate change. These aspects need to be incorporated into the objective.</p> <p>Further, the reference to ‘environmental limits’ within the objective is confusing and open to interpretation as this is not a term which has been defined in the PORPS.</p>	<p>Amend as follows:</p> <p><i>The generation capacity of renewable electricity generation activities in Otago:</i></p> <p>(1) is <u>protected and maintained and, if practicable, where appropriate increased</u>, <del>maximised within environmental limits and</del></p> <p>(2) contributes <u>in full</u> to meeting New Zealand’s national target for renewable electricity generation <u>and climate change commitments</u>.</p>
<p><b>EIT-EN-P1 – Operation and Maintenance</b></p> <p><i>The operation and maintenance of existing renewable electricity generation activities is provided for while minimising its adverse effects.</i></p>	Oppose in part	Contact Energy is concerned that this policy as currently worded has undervalued the importance of existing renewable electricity generation. Instead of providing for already established activities, it has created the potential to limit their ability to operate and be maintained, particularly through lack of reference to generation output and operational capacity.	<p>Amend policy as follows:</p> <p><u>‘Protect the operation and maintenance of existing renewable electricity generation activities, and provide for their operation, maintenance and upgrading, including maintenance of generation</u></p>

PROVISION	POSITION	REASONS	RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought)
		<p>It is recommended that reference to these aspects of the activities is added to the policy.</p> <p>Further it is unclear what is anticipated by 'minimising' adverse effects – to what extent is minimisation to occur and how is this anticipated to be achieved when existing assets are already in existence and in some cases, planned to be in operation for several generations. This implies that operation of existing activities may also be expected to reduce existing effects that are now part of the existing environment. This would have a detrimental impact on the ability to maintain generation output and operational capacity and therefore contradict the NPS-REG. It also fails to recognise that some adverse effects might be justified to achieve greater public good associated with renewable energy generation, particularly where these assets are already existing.</p>	<p><del>output and protection of operational capacity is provided for while minimising its adverse effects.</del></p>
<p><b>EIT-EN-P2 – Recognising renewable electricity generation activities in decision making</b></p> <p><i>Decisions on the allocation and use of natural and physical resources, including the use of fresh water and development of land:</i></p> <p>(1) <i>recognise the national, regional and local benefits of existing renewable electricity generation activities,</i></p> <p>(2) <i>take into account the need to at least maintain current renewable electricity generation capacity, and</i></p> <p>(3) <i>recognise that the attainment of increases in renewable electricity generation capacity will require significant development of renewable electricity generation activities.</i></p>	Support in part	<p>Contact Energy generally supports the intent of this policy in that seeks to recognise and provide for renewable energy generation activities.</p> <p>Contact Energy submits that this is generally consistent with giving effect to the NPS -REG and this is appropriate and necessary, but does consider some amendments to further strengthen this.</p>	<p>Amend this policy as follows:</p> <p><i>Decisions on the allocation and use of natural and physical resources, including the use of fresh water and development of land:</i></p> <p>(1) <i>recognise the national, regional and local benefits of existing and potential new renewable electricity generation activities,</i></p> <p>(2) <i>Protect the generation output and operational capacity of existing renewable electricity generation activities,</i></p> <p>(2) <del>take into account provide for the need to at least maintenance of current renewable electricity generation capacity and enhance this where there are resources and opportunities to do so, and</del></p> <p>(3) <i>recognise the need to increase the installed capacity of renewable electricity generation assets in Otago. that the attainment of increases in renewable electricity generation capacity will require significant development of renewable electricity generation activities.</i></p>
<p><b>EIT-EN-P3 – Development and upgrade of renewable electricity generation activities</b></p> <p><i>The security of renewable electricity supply is maintained or improved in Otago through appropriate provision for the development or upgrading of renewable electricity generation activities and diversification of the type or location of electricity generation activities.</i></p>	Support in part	<p>Contact Energy is concerned that this policy as currently worded does not recognise the need to protect and maintain installed capacity.</p> <p>It is also recommended that the policy is widened in scope to ensure greater consistency with Policy A(b) of NPS – REG, i.e. delete 'maintained or improved' and replace with 'is maintained, protected and increased'; replace the word 'supply' with 'capacity' .</p> <p>It also needs to be recognised that this policy cannot be achieved without some additional adverse effects, even if such effects are minimal and can be remedied, mitigated, offset or compensated for. If improved development and diversification is truly intended, as required to give effect to the NPS-REG, then it needs to be accepted that there will be some environmental effects and the policy amended to accept this without the qualifier 'appropriate'.</p>	<p>Amend wording as follows:</p> <p><i>'The security and installed capacity of renewable electricity supply is protected, maintained or improved increased in Otago through appropriate provision by providing for the upgrade of existing renewable electricity generation activities and the development or upgrading of renewable electricity generation activities, and including diversification of the type or location of electricity generation activities.'</i></p>
<p><b>EIT-EN-P4 – Identifying new sites or resources</b></p>	Support in part	<p>Contact Energy partly supports this policy but is concerned with some of the drafting. It appears to provide for activities associated with the investigation, identification and assessment of potential renewable</p>	<p>Amend this policy as follows:</p>

PROVISION	POSITION	REASONS	RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought)
<p><i>Provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation and, when selecting a site for new renewable electricity generation, prioritise those where adverse effects on highly valued natural and physical resources and mana whenua values can be avoided or, at the very least, minimised.</i></p>		<p>electricity generation activities, which is supported. It is not clear however whether this policy is targeted towards resource developers, district and regional plan developers or decision makers. If it is the latter, Contact Energy submits that it would not be appropriate for the RPS to have a role in site selection. There are a number of locational, operational, environmental, commercial and economic considerations that need to be considered in site selection. It is not appropriate for the PORPS to potentially veto sites without due consideration of all of these factors.</p> <p>This policy also seems to combine two different issues into one. The first part of the policy appears to provide for activities associated with identification and investigation of potential development sites, potentially to give effect to Policy G of the NPS-REG.</p> <p>However, the second part requires new projects to avoid adverse effects on highly valued natural and physical resources. Contact Energy submits that this second part of the policy undercuts many other policies within the RPS and is confusing, duplicatory, and not required. There are other provisions which seek to protect significant natural values and resources and EN-P6 also refers to how effects of renewable electricity generation activities are to be managed.</p>	<p><i>Provide for activities associated with the investigation, identification and <del>assessment</del> <u>development</u> of potential sites and energy sources for renewable electricity generation <del>and, when selecting a site for new renewable electricity generation, prioritise those where adverse effects on highly valued natural and physical resources and mana whenua values can be avoided or, at the very least, minimised.</del></i></p>
<p><b>EIT-EN-P6 – Managing effects</b></p> <p><i>Manage the adverse effects of renewable electricity generation activities by:</i></p> <p><i>(1) applying EIT-INF-P13,</i></p> <p><i>(2) having regard to:</i></p> <p><i>(a) the functional need to locate renewable electricity generation activities where resources are available,</i></p> <p><i>(b) the operational need to locate where it is possible to connect to the National Grid or electricity sub-transmission infrastructure, and</i></p> <p><i>(c) the extent and magnitude of adverse effects on the environment and the degree to which unavoidable adverse effects can be remedied or mitigated, or residual adverse effects are offset or compensated for; and</i></p> <p><i>(3) requiring consideration of alternative sites, methods and designs, and offsetting or compensation measures (in accordance with any specific requirements for their use in this RPS), where adverse effects are potentially significant or irreversible.</i></p>	<p>Oppose in part</p>	<p>Contact Energy supports the intent of this policy but opposes the reference to Policy EIT- INF – P13.</p> <p>Contact Energy is concerned that the inclusion of Clause (1) of this policy ‘applying EIT – INF – P13’ effectively places <u>new</u> electricity generation activities (based on the current wording of the policy) on the current platform as all other persons proposing to establish infrastructure of any type. It reduces and undercuts the recognition and benefits afforded to renewable electricity generation activities through the NPS-REG.</p> <p>Contact Energy is also concerned with Clause (3) which requires consideration of alternative sites, methods and designs. Consideration of alternative sites, methods and designs is not referred to in the NPS-REG. Schedule 4 of the RMA only requires consideration of alternatives if the activity is likely to result in a significant adverse effect. This is not consistent with the RMA and is inappropriate to make this a mandatory requirement.</p>	<p>Delete clauses (1) and (3) from this policy.</p>
<p><b>EIT-EN-P7 – Reverse sensitivity</b></p> <p><i>Activities that may result in reverse sensitivity effects or compromise the operation or maintenance of renewable electricity generation activities are, as the first priority, prevented from establishing and only if that is not reasonably practicable, managed so that reverse sensitivity effects are minimised.</i></p>	<p>Support</p>	<p>Contact Energy generally supports the intent of this policy.</p>	<p>Retain this policy in order to protect existing renewable electricity generation activities from adverse reverse sensitivity activities.</p>

PROVISION	POSITION	REASONS	RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought)
<p><b>EIT-INF-O4 – Provision of Infrastructure</b></p> <p><i>Effective, efficient and resilient infrastructure enables the people and communities of Otago to provide for their social and cultural well-being, their health and safety, and supports sustainable economic development and growth within the region within environmental limits.</i></p>	Oppose in part	<p>Similar to the above point, Contact Energy is concerned that this contains reference to ‘environmental limits’ which are not currently defined and subjective as it is open to interpretation.</p> <p>Contact Energy submit that this should be amended so that it is an enabling provision which adequately recognises the significance of infrastructure to the region’s social and economic wellbeing.</p>	<p>Amend the objective as follows:</p> <p><i>Effective, efficient and resilient infrastructure enables the people and communities of Otago to provide for their social and cultural well-being, their health and safety, and supports sustainable economic development and growth within the region <del>within</del> environmental limits.</i></p>
<p><b>EIT-INF-P11 – Operation and Maintenance</b></p> <p><i>Except as provided for by ECO-P4, allow for the operation and maintenance of existing nationally and regionally significant infrastructure while:</i></p> <p>(1) <i>avoiding, as the first priority, significant adverse effects on the environment, and</i></p> <p>(2) <i>if avoidance is not practicable, and for other adverse effects, minimising adverse effects.</i></p>	Oppose in part	<p>Contact Energy is concerned about the implementation difficulties associated with this policy. It is self-contradictory and totally ineffective at ‘allowing for’ the operation and maintenance of significant infrastructure. The policy requires ‘avoidance’ as the first priority, and only when avoidance is not practicable other management methods are available. This will foreclose otherwise sustainable, existing and nationally significant options for generating renewable energy and create a deeply unhelpful planning context for consent renewals. In some circumstances there will be adverse effects from the generation of renewable energy that cannot be avoided (such as from the Clyde and Roxburgh Dams), yet the broader environmental, social and community benefits arising are such that the economic and social outcomes, as well as broader climate change and decarbonisation benefits that accrue, are so significant as to outweigh these effects.</p> <p>Contact Energy also submits that it is not clear what would be required by “minimising adverse effects”. This does not appear to be consistent with the avoid, remedy or mitigate RMA regime, and the literal definition of minimise is to achieve “the smallest possible amount”. In this context is not too dissimilar to an outright avoidance requirement.</p>	Delete this policy or otherwise develop a new policy that actually “allows for the operation and maintenance of existing nationally and regionally significant infrastructure”.
<p><b>EIT-INF-P13 – Locating and managing effects of infrastructure</b></p> <p><i>When providing for new infrastructure outside the coastal environment:</i></p> <p>(1) <i>avoid, as the first priority, locating infrastructure in all of the following:</i></p> <p>(a) <i>significant natural areas,</i></p> <p>(b) <i>outstanding natural features and landscapes,</i></p> <p>(c) <i>natural wetlands,</i></p> <p>(d) <i>outstanding water bodies,</i></p> <p>(e) <i>areas of high or outstanding natural character,</i></p> <p>(f) <i>areas or places of significant or outstanding historic heritage,</i></p> <p>(g) <i>wāhi tapu, wāhi taoka, and areas with protected customary rights, and</i></p> <p>(h) <i>areas of high recreational and high amenity value, and</i></p> <p>(2) <i>if it is not possible to avoid locating in the areas listed in (1) above because of the functional or operational needs of the infrastructure manage adverse effects as follows:</i></p> <p>(a) <i>for nationally or regionally significant infrastructure:</i></p>	Oppose	<p>Contact Energy is concerned that this policy adopts and imposes a wholesale prevention of activities in areas of significance or higher value, regardless of the degree of effect (i.e. its significance) or the significance of the value being affected.</p> <p>It also then states that if avoidance “is not possible” then adverse effects are to be managed in accordance with reference to other provisions of the PORPS.</p> <p>Contact Energy is concerned that it might always be <b>possible</b> for an operationally feasible proposal to be identified that did not affect one or some of the matters listed in (1) of this policy. This policy means that an alternatives assessment will be necessary to accompany any application if it affects one or more of these areas, and as currently drafted this alternative assessment would need to occur regardless of the scale of effect on that value or resource. This is inconsistent with requirements of the RMA. When the consideration of alternatives is required, both the applicant and the decision maker will then need to consider whether they are ‘possible’. Both parties will need to be satisfied that such alternatives are not possible. An alternative is ‘possible’ if it is technically feasible, whatever the cost. That is, whether something is ‘possible’ or not (e.g., ‘avoid locating in higher value areas unless this is not possible’) does not require a consideration of costs, efficiency, practicality, or the likelihood of it proceeding.</p>	Delete this policy.



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<p>(i) in significant natural areas, in accordance with ECO-P4,</p> <p>(ii) in natural wetlands, in accordance with the relevant provisions in the NESF,</p> <p>(iii) in outstanding water bodies, in accordance with LF-P12,</p> <p>(iv) in other areas listed in EIT-INF-P13 (1) above, minimise the adverse effects of the infrastructure on the values that contribute to the area's importance, and (b) for all infrastructure that is not nationally or regionally significant, avoid adverse effects on the values that contribute to the area's outstanding nature or significance.</p>		<p>Contact Energy also submits that there are implementation issues with ECO-P4 and the effects management hierarchy is flawed as a result.</p> <p>There also appears to be an issue with reference to (2)(1)(a)(iii) – LF-P12. LF-P12 identifies outstanding water bodies it does not relate to managing adverse effects. Or alternatively if this is the correct reference, Contact Energy is concerned that the management response is avoidance as a result.</p>	
<b>NFL – NATURAL FEATURES AND LANDSCAPES</b>			
<p><b>NFL-P2 – Protection of Outstanding Natural Features and Landscapes</b></p> <p>Protect outstanding natural features and landscapes by:</p> <p>(1) Avoiding adverse effects on the values that contribute to the natural feature or landscape being considered outstanding, even if those values are not themselves outstanding, and</p> <p>(2) Avoiding, remedy or mitigating other adverse effects.</p>	Oppose	<p>Contact Energy submits that this policy drafting is inconsistent with section 6(b) of the RMA which requires the protection of outstanding natural landscapes and features from 'inappropriate' activities. This provision requires the blanket avoidance of all adverse effects without any regard to the scale or severity of the effect, or of the appropriateness of the proposed activity.</p> <p>Contact Energy is also concerned how this policy will be reconciled with others that do recognise, in some instances, that activities which may cause adverse effects may locate and operate in such higher values area (e.g. those that are able to utilise the effects management hierarchy). Given some of the integrated management provisions of the PORPS, this provision will establish a trumping effect.</p>	<p>Amend the policy as follows:</p> <p>Protect outstanding natural features and landscapes <u>from inappropriate subdivision, use and development</u> by:</p> <p>(1) Avoiding <u>significant</u> adverse effects on the values that contribute to the natural feature or landscape being considered outstanding, even if those values are not themselves outstanding, and</p> <p>(2) Avoiding, remedy or mitigating other adverse effects.</p>
<p><b>NFL-P3 – Maintenance of highly valued natural features and landscapes</b></p> <p>Maintain or enhance highly valued natural features and landscapes by:</p> <p>(1) Avoiding significant adverse effects on the values of the natural feature or landscape, and</p> <p>(2) Avoiding, remedying or mitigating other adverse effects.</p>	Oppose	<p>Contact Energy submits that there is uncertainty regarding the term "highly valued natural features and landscapes". These are defined in the PORPS as being section 7(c) and 7(f) type landscapes, however Contact Energy is concerned that there appears to be little to distinguish these and the management of these types of landscapes from those recognised as being 'outstanding' natural features and landscapes. For example, the criteria to identify both landscape types appear to be the same (refer APP9) and this policy is very similar to the requirements set out in NFL-P2. While this policy seeks to maintain and enhance highly valued landscapes, the management requirement is essentially the same as what is required in NFL-P2 which seeks instead to "protect" outstanding natural landscapes and features. Because these highly valued landscapes are not yet known, Contact Energy is concerned that this policy regime establishes a policy with unknown and particularly broad scope, as well as setting too high a bar for lesser valued landscapes.</p>	<p>Delete this policy, or amend so as to achieve the following:</p> <p>Maintain or enhance highly valued natural features and landscapes by:</p> <p><del>(1) Avoiding significant adverse effects on the values of the natural feature or landscape, and</del></p> <p><del>(2) Avoiding, remedying or mitigating other adverse effects.</del></p> <p><u>Avoiding, remedying or mitigating adverse effects.</u></p>
<b>UFD – URBAN FORM AND DEVELOPMENT</b>			
<p><b>UFD-O4- Development in rural areas</b></p> <p>Development in Otago's rural areas occurs in a way that:</p> <p>(1) Avoids impacts on significant values and features identified in this RPS,</p>	Oppose	<p>Contact Energy is concerned that this objective will act as a prohibition to a significant number of sustainable, environmentally responsible, and nationally significant activities, including renewable generation activities, within the rural environment. It requires the <b>avoidance</b> of all impacts on significant values and features identified in this PORPS and does not allow for any ability to manage those effects via mitigation, remediation, offsetting or compensation / enhancement type measures. A blanket "avoidance of impact" and strict zoning approach to 'sensitive activities'</p>	<p>Delete this objective or, at the very least constrain its coverage to 'urban residential development'.</p>

PROVISION	POSITION	REASONS	RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought)
<p><i>(2) Avoids as the first priority, land and soils identified as highly productive by LF-LS-P19 unless there is an operational need for the development to be located in rural areas,</i></p> <p><i>(3) only provides for urban expansion, rural lifestyle, and rural residential development and the establishment of sensitive activities, in locations identified through strategic planning or zoned within district plans as suitable for such development; and</i></p> <p><i>(4) outside of areas identified in (3) maintains and enhances the natural and physical resources that support the productive capacity, rural character, and long term viability of the rural sector and rural communities.</i></p>		<p>is tantamount to a prohibition, and not the default answer to achieving the best environmental and economic outcomes.</p> <p>It is unclear how this policy will be considered and reconciled against other provisions in the PORPS which provides (to an extent) a pathway for activities to develop and operate within areas of value.</p>	

