

**Before the Hearings Panel
For the Proposed Otago Regional Policy Statement**

Under the Resource Management Act 1991 (“**Act**”)

In the matter of Submissions on the Proposed Otago Regional Policy Statement 2021 (excluding parts determined to be a freshwater planning instrument)

Between **Otago Fish and Game Council and Central Otago Fish and Game Council**
Submitter #231 & FS00231

Real Group Limited
Submitter #00411

NZSki Limited
Submitter #00206

Planning Evidence of Ben Farrell

28 November 2022

CONTENTS

EXECUTIVE SUMMARY	3
INTRODUCTION	3
Qualifications and experience.....	3
Scope of evidence.....	3
Code of conduct.....	4
STATUTORY REQUIREMENTS	4
GENERAL RELIEF AND PLAN DRAFTING	4
SPECIFIC RELIEF	5
Description of the Region – Natural Character and landscapes.....	5
New SRMR Section and various minor amendments.....	5
SRMR Section: Various minor amendments.....	7
Definitions: 'Natural Environmental Limits' and 'Other Environmental Limits'.....	8
Definitions: Natural Environment.....	10
Definitions: Minimise.....	10
Definitions: Precautionary approach.....	10
Definitions: Restore.....	11
Definitions: Regionally Significant Infrastructure.....	11
Definitions: Ski Area Infrastructure.....	12
IM-P1 - Integrated approach to decision-making, IM-P2 – Decision priorities.....	12
IM-P4 – Setting a strategic approach to ecosystem health.....	13
IM-P5 – Managing environmental interconnections, IM-P13 – Managing cumulative effects.....	14
IM-P10 – Climate change adaptation and climate change mitigation.....	15
IM-P12 – Contravening environmental limits for climate change mitigation.....	16
IM-P14 – Human Impact.....	16
IM-M1 – Regional plans and district plans.....	17
IM-M2 – Relationships.....	17
LF-WAI-P3 – Integrated management/ki uta ki tai.....	18
LF-FW-P12 – Identifying and managing outstanding water bodies.....	19
LF-FW-P13 – Preserving natural character and instream values.....	19
LF-FW-P13A – Effects management hierarchy (in relation to natural wetlands and rivers).....	20
LF-FW-P14 – Restoring natural character and instream values.....	21
LF-LS-O11, O11A, O12, LF-LS-P16, LF-LS-P19.....	Error! Bookmark not defined.
LF-LS-P20 - Land use change.....	21
LF-LS-M12 – District Plans.....	21
ECO-O1 – Indigenous biodiversity.....	22
ECO-P5 – Existing activities in significant natural areas.....	22
ECO-P8 – Restoration and enhancement.....	23
ECO-M5 – District plans.....	23
ECO-M8 – Other incentives and mechanisms.....	24
ECO-AER1.....	24
ECO-AER2.....	24
EIT-INF-P13 – Locating and managing effects of infrastructure.....	24
EIT-INF-M4 – Regional plans.....	25
EIT-INF-M5 – District plans.....	26
EIT-EN-O2 – Renewable electricity generation.....	27
EIT-EN-P1 – Operation and maintenance.....	27
EIT-EN-P2 - Recognising renewable electricity generation activities in decision making.....	28
EIT-EN-P3 – Development and upgrade of renewable electricity generation activities.....	28
EIT-EN-P5 – Non-renewable energy generation.....	29
EIT-TRAN-P19 – Transport system design.....	29
HCV-HH-P5 – Managing historic heritage.....	30
NFL-O1 - NFL-O1 – Outstanding and highly valued natural features and landscapes and NFL-P4 – Restoration.....	30
UFD-P7 – Rural Areas.....	31
UFD-M1 – Strategic Planning.....	32
APP1 - Criteria for identifying outstanding water bodies.....	32
APP6 – Methodology for natural hazard risk assessment.....	32
APP9 – Identification criteria for outstanding and highly valued natural features, and landscapes and (including seascapes).....	33
S32AA SUMMARY	33
CONCLUSION	34

EXECUTIVE SUMMARY

- 1 My name is Ben Farrell. I am the owner and director of Cue Environmental Limited, an independent planning consultancy based in Queenstown. Much of my work experience over the last decade has been undertaken in Southland, Otago and Canterbury, including regional policy and plan developments for these regions. I am familiar with Otago's natural and built environments, and mana whenua rights and interests. I am experienced in the preparation and practical application of most resource management processes applicable in Otago.
- 2 I have been asked by Otago Fish and Game Council and Central Otago Fish and Game Council (Fish and Game), Real Group Limited (Realnz), and NZSki Limited (NZSki) to provide evidence in relation to the appropriateness of some of the pRPS.
- 3 I generally concur with and rely on many of the findings and recommendations set out in the respective s42A Reports. However, my assessment is that many of the amendments recommended in the s42 Report should be amended further in order to be the most appropriate in respect of a s32 evaluation.

INTRODUCTION

Qualifications and experience

- 4 My full name is Ben Farrell. I am an Independent Planning Consultant based in Queenstown. I have masters level qualifications in environmental policy and planning gained from Lincoln University in Canterbury plus 20 years practical experience working across New Zealand on a range of environmental policy and planning matters.

Scope of evidence

- 5 I have been asked to prepare planning evidence on parts of the pRPS by Otago Fish and Game Council and Central Otago Fish and Game Council (Fish & Game), Real Group Limited (Realnz), and NZSki Limited (NZSki).
- 6 My evidence is focused on core issues and specific provisions of particular interest to these submitters excluding relief sought that is supported in the s42A Report (for brevity I have tried to avoid commenting on provisions where ORC is supporting the relief of Fish and Game, Realnz, NZSki).
- 7 In preparing this evidence I have reviewed or refer to: the ORC s32 evaluation material and s42A Report (inclusive of all supplementary evidence); original and further submissions of numerous submitters; and evidence of Mr Paragreen and Mr Couper for Fish and Game, Mr Norris for Realnz and Mr Anderson for NZSki. I have also referred to content of the Natural and Built and Environment Act bill.
- 8 In preparing this evidence I have also had discussions with planning experts and representatives of other parties, including through the formal pre-hearing meeting process.

Code of conduct

- 9 While this matter is not before the Court, I confirm that I have read the Code of Conduct for expert witnesses contained in the Environment Court of New Zealand Practice Note 2014.
- 10 As a member of NZPI I am also required to abide the NZPI Code of Ethics.
- 11 I declare that I am married to Ms Ailsa Cain who is a member of the Cain whanau. The Cain whanau are mana whenua in Otago and have an interest in the provisions in this RPS (Submission #0110).

STATUTORY REQUIREMENTS

- 12 The description of the relevant statutory requirements are set out in paragraphs 23-27 and section 1.4 of the s32 Report, primarily in respect of the requirements of a regional policy statement under s.62 and the evaluations required under s32 and s32AA.
- 13 The s32 Analysis provided in the s42A Report assesses the costs and benefits of various provision options. While not always expressed or referenced directly in my analysis below the relevant s32 matters provide the starting point for my assessments. Applying these evaluation matters, my evidence below outlines why the amendments discussed in my evidence are more appropriate compared to the amendments recommended in the s42A report.

GENERAL RELIEF AND PLAN DRAFTING

- 14 Fish and Game, Realnz and NZSki have sought general relief to amend provisions to remove ambiguous and unclear wording and replace with consistent, directive terms.
- 15 As a matter of good plan drafting the RPS should utilise consistent and concise phrasing and remove as much uncertainty as can practicably be achieved. The benefits of reducing or removing uncertainty (through providing clear direction) include:
- (a) Improved understanding by lay people (who are effectively the major end user).
 - (b) Actual measurable protection of environmental values (where policy directives are sufficiently clear and precise)
 - (c) Improved clarity over people's rights and interests to utilise resources, inclusive of avoidance or reductions in future costs and risks in investment opportunities associated with the preparation and administration of lower order plans and consent applications.
- 16 The RPS will be improved through additional clarity by accepting the relief sought by Fish and Game, Realnz and NZSki in relation to:
- (a) Including the word 'natural' before landscape every time there is reference to outstanding natural features or landscapes' and 'highly valued natural features or landscapes;
 - (b) Referring to 'indigenous' rather 'native'.

SPECIFIC RELIEF

- 17 A full list of all amendments I am recommending, shown as track changes to the amendments recommended in the s42A Report, is attached to this evidence as Appendix 1.

Description of the Region – Natural Character and landscapes

Recommendation

- 18 Insert the following statement in the section:

There is an extensive and important amount of unmodified land and water, particularly in National Parks and other Public Conservation Areas.

Reason

- 19 Fish and Game, Realnz and NZSki are seeking the statement is amended to include “*There is a tremendous amount of unmodified land in our National Parks and other Public Conservation Land*” because the description understates the amount and importance of unmodified natural environment throughout Otago and sought amendment to include.
- 20 There is a large and important amount of unmodified land in Otago and it is appropriate to ensure the RPS identifies or acknowledges these ‘natural state’ characteristics as these areas:
- (a) Provide an actual baseline for comparing natural environmental conditions with degraded environmental conditions;
 - (b) Provide people with human health and well-being benefits;
 - (c) Are significant resources for the region, such as for tourism.
- 21 There is some emotive context associated with the term tremendous as identified in the s42A Report. Therefore, it is appropriate to replace tremendous with a more neutral or factual word, such as extensive and important.

New SRMR Section and various minor amendments

Recommendation

- 22 Insert a new section, as follows. Alternatively, insert a narrower section related only to the benefits of human health and well-being benefits associated with accessing (i.e. transport to and within) and recreating in (i.e. using) natural resources/natural environment.

SRMR–112 – Social, cultural and economic wellbeing of Otago’s communities depends on use and development of natural and physical resources

Statement

The social, cultural and economic health and wellbeing of Otago’s people and communities relies on the ability of people being able to access, use and develop the region’s natural and physical resources.

Context

The social, cultural and economic wellbeing of Otago's communities depends on use and development of natural and physical resources. Loss or degradation of resources can diminish their intrinsic values and constrains opportunities for use and development now and into the future. Some of Otago's resources are nationally or regionally important for their natural values and economic potential and so warrant careful management.

Sustainable management under the RMA includes enabling social, economic and cultural wellbeing for present and future generations. Resource management decisions need to recognise that individual and community wellbeing depends on use, development and protection of natural and physical resources.

Impact snapshot

Environmental

Subdivision, use and development of natural resources can result in appropriate environmental effects including net environmental benefits, particularly where that subdivision, use or development results in enhancement and restoration of degraded parts of the natural environment.

Human use (associative) benefits of from human use of accessing and using natural resources contributes to the significant values of highly valued natural features and natural landscapes, and outstanding waterbodies.

Enabling people to access and use natural resources results in significantly positive human health and well-being benefits.

Social and economic

Enabling people to access and use natural resources is required to support a prosperous regional economy. Limiting people's ability to access and use resources use can limit productive economic opportunities and adversely impact the health and well-being of Otago's people and communities.

Reason

- 23 Enabling people to access, develop and use resources for their benefit (including their benefitting other people and future generations) within natural environmental limits (set at an extent that safeguards/protects the natural environment to provide for future generations) is at the heart of the fundamental concept of sustainable management. However, there is no imperative to allow the use of natural resources where that use does not safeguard Otago's life supporting capacity of air, water, soil, and ecosystems. Where Otago's natural resources are depleted or depleting (at a regional scale) then s5 should be read as directing a need to protect or restore that natural resource until its life-supporting capacity is safeguarded (at a regional scale).
- 24 The provision for human health and well-being (within environmental limits) is effectively the fundamental purpose of the RMA yet the pRPS does not acknowledge as a significant resource management issue that providing for social, cultural and economic health and wellbeing of Otago's people and communities relies on the ability of people being able to access, use and develop the region's natural and physical resource. This includes the needs of people to, among other things, be able to able to recreate (indoors and outdoors).

- 25 Outdoor recreation is an important part of Otago and New Zealand's identity and social and cultural well-being. Commercial outdoor recreation (and transport services associated with outdoor recreation) in Otago provide considerable socioeconomic benefits to the region. This is evidenced in the Economic Assessment undertaken by Mr Benje Patterson attached to the evidence of Mr Anderson. For example, this research identified that skiing results in social and cultural wellbeing benefits.

SRMR Section: Various minor amendments

Recommended Amendments

- 26 Add the following to end of the paragraph following Figure 2:
Finally, issues of economic and domestic pressures, cumulative impacts and resilience, and social and economic wellbeing, are considered.
- 27 Add the following to the economic description for SRMR-I5
Freshwater in the Otago region is a factor of production that directly contributes to human needs (urban water supply), agriculture (including irrigation), hydro-electric power supply, tourism (for example water supply for visitor destinations and snowmaking), and mineral extraction.
- 28 Add the following to the social description for SRMR-I5
These values are strongly linked to environmental values and as such, reduced environmental flows have a corresponding negative impact on social and cultural values (including people's wellbeing).
- 29 Add the following to the statement under SRMR17:
Subdivision, development and changing land use can result in ecological enhancement and restoration benefits, particularly in areas where indigenous biodiversity has been degraded.
- 30 Add the following to the context description for SRMR-I7
A means of enhancing and restoring indigenous biodiversity in the Region includes promoting subdivision and changes in land use (including development) which results in ecological enhancement and restoration benefits, including outside SNAs where indigenous biodiversity has been heavily degraded or lost.
- 31 Amend the context description for SRMR8 as follows:
Such activities ~~can be~~ are important contributors to the ~~existing and future~~ health and well-being of people and communities. ~~when they are located and managed appropriately.~~
- 32 Amend the statement for SRMR19 as follows:
The beauty, recreational opportunities and regional climate of Lakes Wanaka, Wakatipu, Hāwea and Dunstan and their environs provides significant recreational benefits to people and attract visitors and residents from around the region, the country and the world. This supports human health and well-being and ~~influ~~ brings economic ~~benefit through urban growth and tourism~~ opportunities, but the activities and services created to take advantage of it can degrade the environment and undermine the experience that underpins their attractiveness
- 33 Amend the context description for SRMR19 as follows:

... The values assigned to lakes include the natural features and landscapes, the quality and quantity of water accessible to the Otago communities, the accessibility of these resources for recreation and transport, the health of native flora and fauna associated with Otago's rivers and lakes, and renewable energy production.

...

This desire of New Zealanders and international visitors to enjoy the outstanding natural environments of the Otago lakes has placed significant pressures on the environment, transport, energy and other infrastructure, health services and social structures. Individual and community benefits associated with using the lakes are significant, including from recreation which supports human health and wellbeing.

- 34 Amend the economic description for SRMRI9 as follows:

The economic benefits of urban development, tourism, agriculture, energy production and water supply are significant to can be positive for the Otago-Lakes' communities and visitors. ~~It also impacts on the region's natural assets with a growing cost to the region that puts at risk the environment highly prized by residents and visitors. There are also impacts between industry sectors. However, For example, the clean green image of New Zealand, of which a large part of the Otago Lakes area is symbolic, is at risk of being compromised because of poorly designed development, inadequate infrastructure and over-crowding in some location. speak tourism seasons. This has the potential to adversely affect the existing regional economy and future economic development; and the tourism industry's social licence to operate. At the same time tourism can negatively impact on how agriculture can operate, potentially limiting its contribution to the regional economy.~~

- 35 Add the following to the start of social description for SRMRI9 as follows:

The social benefits of urban development, tourism and recreation are significant to the Otago-Lakes' communities and visitors.

- 36 Amend the statement for SRMRI10 as follows:

Tourism and recreation, which relies on the environment and provides significant benefits to the economy and people's health and well-being, can also put pressure on natural environments.

Reasons

- 37 The SRMR section should be amended to include the above amendments (or wording with like effect) to help the RPS better recognise and appropriately provide for the benefits of and provide for human health and well-being.

Definitions: 'Natural Environmental Limits' and 'Other Environmental Limits'

Recommendation

- 38 Retain references to 'biophysical limit' and amend references to 'environmental limit' or 'limit' to 'biophysical limit', and include meaning for 'biophysical limit' to accord with the meaning of environmental limit adopted in the NBEA bill. Suggested wording is:

Biophysical limit

A biophysical environmental limit must be expressed as relating to the ecological integrity of the natural environment or to human health.

A biophysical limit may be:

(a) qualitative or quantitative:

(b) set at different levels for different management units:

(c) set in a way that integrates more than 1 of the aspects of the natural environment.

- 39 Any consequential amendments (if required) to avoid overlap with the references to 'limit (in relation to freshwater)' and 'limit on resource use'.

Reason

- 40 The s42A Report clarifies ORC's intentions around applying environmental limits in the regional planning framework. However, the recommended amendments do not clarify what limits might apply to what aspects of the environment. In practice it will be difficult to achieve or progress towards healthy and resilient natural environmental systems in the absence of limits.
- 41 This uncertainty should be minimised by amending the RPS to clarify the circumstances where limits may not be practicable and set out a criteria or methodology for dealing with the impracticality.
- 42 In principle, the poorer the state of the natural environment then the poorer the state of human wellbeing, and vice versa. The RPS refers to "tipping points" (a scientific term describing the point at which part of the natural environmental system is nudged into different state of irreversible change that is beyond human control). Once a tipping point is crossed then economic situations reliant on those environmental or natural resources become uncontrollable and this cannot be undone. Transformational change is required compared to the way that the environment and resources have been managed in historically under previous environmental law in New Zealand. This is already evident in the highly prescribed and restrictive policy direction set out in parts of the NZCPS, NPSFM and the NPSHPL. It is therefore appropriate that the RPS directs lower order planning documents to include measurable and quantifiable natural environmental limits.
- 43 The approach taken in the s42A Report would allow limits to be set in relation to matters that are not consistent with the purpose of setting environmental limits set out in the NBEA (for example on amenity and landscape values). Strict measurable / quantifiable limits on resource use should not be imposed in respect of anthropocentric environmental values, such as landscape, historic heritage, cultural values, rights and interests of Ngai Tahu. These anthropocentric values fundamentally do not threat natural environmental systems or have biophysical tipping points.

- 44 The meaning of environmental limit, in a New Zealand context, has been clarified somewhat in the drafting of the NBEA Bill. Under the Bill the purpose of setting environmental limits is (a) to prevent the ecological integrity of the natural environment from degrading from the state it was in at the commencement of this Part: (b) to protect human health. Environmental limits must be set for air, indigenous biodiversity, coastal water, estuaries, freshwater, and soil. Environmental limits can also be set for any other aspect of the natural environment in accordance with the purpose of setting environmental limits. While this bill is not law, the definition provided in the bill is generally consistent with version sought in the submission by Fish and Game.

Definitions: Natural Environment

Recommendation

- 45 Provide a definition of natural environment as sought by the submitter. Suggested wording is that identified in the NBEA bill:

Natural environment means:

(a) the resources of land, water, air, soil, minerals, energy, and all forms of plants, animals, and other living organisms (whether native to New Zealand or introduced) and their habitats; and

(b) ecosystems and their constituent parts

Reason

- 46 The term “natural environment” is used throughout the RPS but is not defined. If the meaning of natural environment is not defined in the RPS then uncertainty and ambiguity will arise.

Definitions: Minimise

Recommended Amendment

Minimise means to reduce to the smallest amount reasonably practicable. Minimised, minimising and minimisation have the corresponding meaning.

Reason

- 47 The term ‘minimise’ is used many times in the RPS but it is not defined. The definition of ‘minimise’ sought by the submitters is used (and has recently been adopted by the Court) in at least two regional planning documents I have been involved in (Wellington and Southland land and water plans). Including a definition for ‘minimise’ should reduce ambiguity in the plan provisions.

Definitions: Precautionary approach

Recommendation

- 48 Provide a definition of or meaning for ‘precautionary approach’:

Precautionary approach means an approach that:

(a) avoids not acting due to uncertainty about the quality or quantity of the information available, and

(b) interprets uncertain information in a way that best supports the health, well-being and resilience of the natural environment

Reason

- 49 There are multiple references in the RPS to applying a 'precautionary approach' but there is no clarity what applying a precautionary approach actually entails. In my opinion it is more appropriate to provide a definition than not providing a definition. I have supported the definition provided in the Fish and Game submission but I observe there is similar definition sought by the Waitaki Irrigators that could be appropriate.

Definitions: Restore

Recommendation

Restore means to return to a state of good health, well-being and resilience.

Reason

- 50 A definition should be provided to assist with clarity when implementing the RPS, on the basis that the RPS objectives, policies or methods refer to restore.

Definitions: Regionally Significant Infrastructure

Recommendation

- 51 Add Ski Area Infrastructure (as defined by and sought by Realnz and NZSki) to the list of matters identified as Regionally Significant Infrastructure.

Reason

- 52 It is appropriate for the RPS recognise and provide for the significant benefits of outdoor recreation (using skiing and angling as an example) including commercial recreation and associated transport infrastructure and services that are necessary for people to access the (often remote) parts of Otago's natural environment:

- (a) The four ski main ski areas in the Queenstown District have regionally significant benefits, as evidenced in the economic assessment undertaken in 2021 by Mr B Patterson. The maintenance and upgrading of ski area infrastructure also has logistical and locational constraints that make it impracticable and potentially not possible to always avoid wetlands (refer evidence of Mr Anderson).
- (b) As identified by Mr Anderson, the fact that unless classified as regionally significant infrastructure, the NESFM prohibits some activities interference with some wetlands would be prohibited, and the relief being sought is simply to allow for a consenting pathway so such works can be considered on their merits (including potential positive environmental restoration as part of offsetting)
- (c) There is no guidance in any higher order document providing clear or settled direction about what criteria should be applied when determining 'Regionally significant infrastructure'.

- 53 The definition proposed by Realnz and NZSki includes infrastructure as defined in the RMA. It does not (and is not intended to) capture buildings and services associated with the ski areas that are not infrastructure.

Definitions: Ski Area Infrastructure

Recommendation

54 Include definition of Ski Area Infrastructure as sought by Realnz and NZSki:

Means infrastructure associated with the construction, operation, maintenance, upgrading, or expansion of the following existing ski areas:

(a) Cardrona Alpine Resort

(b) Coronet Peak

(c) Remarkables

(d) Treble Cone

Reason

55 Definition required to clarify what is intended by Ski Area Infrastructure in the definition of Regionally Significant Infrastructure.

IM-P1 - Integrated approach to decision-making, IM-P2 – Decision priorities

Recommended Amendment

IM-P1 – Integrated approach to decision-making and prioritisation

Giving effect to the integrated package of objectives and policies in this RPS requires decision-makers to:

(1) place limits on resource use unless exceptional circumstances stated in this RPS apply; and

(2) consider all provisions relevant to an issue or decision and apply them according to the terms in which they are expressed unless exceptional circumstances stated in this RPS apply, and if there is a conflict between provisions that cannot be resolved by the application of higher order documents, prioritise:

(1) (a) the life-supporting capacity and mauri of the natural environment and the health needs of people, and then

(2) (b) the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

(c) if there are competing directives within the matters in priority (1) above then priority shall be given to the principles of sustainability, equity, and efficiency ensuring that the principles of the Treaty of Waitangi are given effect;

(d) if there are competing directive within the matters in priority (2) above then priority shall be given to the principles of sustainability, equity, and efficiency, ensuring that the principles of the Treaty of Waitangi are given effect.

56 The s42A version of this policy directs that conflicts between provisions in the RPS are to be resolved by application of higher order documents.

57 As a matter of good plan drafting, internal policy conflicts should wherever possible be addressed in the document, otherwise it results in ambiguity such that it fails from being suitably effective and efficient. Policy IMP1 and IMP2 (as notified) clarify how the RPS provides an integrated approach and how 'competing policy directives' are to be resolved.

- 58 The s42A Report approach creates uncertainty and severely weakens the relevance of this policy and the RPS. While s61(2)(da) requires the RPS to be prepared in accordance with applicable higher level documents, failure to reconcile policy conflict between higher order documents (inclusive of Part 2 of the RMA) is unlikely to produce an RPS that satisfactorily meets some of ORC's required functions under s30. For example, the RPS must accord with the provisions in part 2 and in doing so consideration must be given to the higher order documents. It could be a perverse outcome to have an RPS that, after completion, still requires decisions made under the RPS to reconsider the higher order planning documents and Part 2 at a later date. Section 30(1) requires integrated management of the natural and physical resources of the region 'to be achieved', and s30(gb) requires "the strategic integration of infrastructure with land use through objectives, policies, and methods". Integrated management and strategic integration will not be achieved efficiently or effectively if the RPS does not at least attempt to reconcile competing policy directives.
- 59 The s42A version of this policy does not give any direction on how to reconcile (or assert priority) where there are conflicts within priority 1 and priority 2 respectively. This is a difficult and still largely emerging aspect of resource management in New Zealand. I have recommended additional clauses (c) and (d) above (based on the principles of sustainability, equity, and efficiency, given effect to the TOW) in attempt to provide clearer direction about how competing policies can be prioritised. These principles are borne out of the rationale set out in the NBEA bill for addressing water allocation plus explicit reference to the principles of the TOW and should provide helpful guidance in what will typically be complicated and difficult decision-making processes.
- 60 Fish and Game sought a subtle amendment to the notified version of this policy to suggest that an appropriate way to reconcile many potential competing interests / directives is to for the RPS to direct that all activities be carried out within the environmental constraints limits identified in the RPS.
- 61 The s42A version of this policy does not provide any reference to utilising resource within environmental limits or resource management limits. The notified version of IM-P2 was appropriately directive in this regard.
- 62 Amalgamating IMP1 and IMP2 is appropriate for the reasons set out in the s42A evidence. However, if the IMP1 and IMP2 are to be merged then the title should reflect the policy is about both integration and prioritisation.

IM-P4 – Setting a strategic approach to ecosystem health

Recommended Amendment

- 63 Amend policy as follows:

IM-P4 – Setting a strategic approach to ecosystem services health

Healthy and resilient ecosystems and ecosystem services are achieved through a planning framework that:

- (1) protects their intrinsic values,
- (2) takes a long-term strategic approach that recognises changing environments,

(3) recognises and provides for ecosystem complexity and interconnections, and

(4) anticipates, or responds swiftly to, changes in activities, pressures, environmental state and trends,

(5) measures cumulative effects on the environment and requires their proactive management, and

(6) Identifies and implements environmental limits in at least the following matters:

(a) air,

(b) coastal waters,

(c) estuaries,

(d) freshwater,

(e) wetlands, and

(f) soil.

(7) Promotes use and development of resources which support the above.

Reason

- 64 Reference to 'resilient' ecosystems is appropriate for the reasons set out in the submission of fish and game and the s42A Report.
- 65 It is appropriate for the RPS to, wherever applicable, promote the use and development of resources that result in benefits to the natural environment, particularly natural environmental enhancement, and restoration initiatives. There should be more emphasis and policy direction for supporting activities which will result in healthy ecosystems and ecosystem services are achieved.
- 66 The title should be amended from referencing 'ecosystem health' to referencing 'ecosystem services' because the policy applies to the state of health and resilience of ecosystem services, it is not limited to the management of ecosystem health.
- 67 Articulating the meaning of wetland or natural wetland - while the evolving nature of the NESFM has resulted in changes to the meaning of natural wetlands managed by the NESFM. It is therefore important for the RPS to have a clear meanings or criteria for clarifying what wetlands are being protected or otherwise managed under the RPS provisions.

IM-P5 – Managing environmental interconnections, IM-P13 – Managing cumulative effects

Recommendation

IM-P5 – Managing environmental interconnections

In resource management decision-making, manage the use and development ~~Coordinate the management~~ of interconnected *natural and physical resources* by recognising and providing for:

(1) situations where the value and function of a natural or physical resource, or the natural environment, extends beyond the immediate, or directly adjacent, area of interest, in time or space,

(2) the effects of activities on a natural or physical resource, or the natural environment, as a whole when that resource is managed as sub-units, and

(3) the impacts of management of one natural or physical resource, or the natural environment, on the values of another, or on the environment.

(4) the impact of individual and cumulative effects on the form, function, and resilience of Otago's environment such that the sum of human activity in Otago supports a healthy environment and provides opportunities available for future generations.

68 Managing cumulative effects is greater than interconnection and should be provided for. It is unclear how removing the reference to 'providing for' (in the chapeaux) is an improvement on the notified version of this policy. Direction to only 'recognise' the stated matters is unlikely to be sufficient to deal with the interconnected aspect of cumulative effects.

69 It is appropriate to capture both natural and physical resources, but 'resources' does not capture all of the 'environment', so it makes sense to manage cumulative effects on the natural 'environment' in addition to natural and physical resources.

70 Cumulative effects can be addressed in individual applications. Addressing cumulative adverse does not require cumulative effects to be resolved. Rather, it is reasonable to require all individual consents to do their part to help address cumulative effects and contribute to resolving cumulative issues. If the intention is not for applicants and decision makers to consider cumulative effects then there is an inconsistency with IMM1 (as proposed and recommended) as it contains a prescribed list of matters to apply when considering cumulative effects.

71 Including Fish and Game's relief sought (adding "such that the sum of human activity in Otago supports the health, well-being and resilience of the natural environment") is appropriate because it reinforces integrated management of natural and physical resources. There should not be any practical difficulties with resource consent applicants and decision-makers (approving applications) having to demonstrate an understanding of how the activity forms part of the environment and forms part of the collective of all activities working together to achieve relevant long-term visions set out in the RPS or lower order planning documents.

IM-P10 – Climate change adaptation and climate change mitigation

Recommendation

72 Adopt s42A version and add a clause and associated amendment to IM-M1 directing councils to include in their plans ways for reducing climate change emissions and improving energy efficiency, for example:

(5) Provide measures or guidance for reducing climate change emissions and improving energy efficiency.

Reasons

- 73 This policy and associated method should be amended (or a new policy and associated method included) to require councils to include in their plans ways for reducing climate change emissions and improving energy efficiency. This is appropriate in order to adapt to and help mitigate the effects of climate change, and for the reasons set out in the submission by the Otago Environmental Defence Society.

IM-P12 – Contravening environmental limits for climate change mitigation

Recommendations

...

(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 an bottom line environmental limit set in a national policy statement or national environmental standard, and

(6) there are no other reasonable alternatives, including changes in the nature or scale of associated activities; and

Reasons

- 74 A new clause relating to “no other reasonable alternatives” is appropriate for the reasons stated in the submission by Fish and Game and Forest and Bird, particularly if a proposal is going to have significant adverse effects on the environment.

IM-P14 – Human Impact

Recommendation

IM-P14 – Human impact

When preparing regional plans and district plans, Ppreserve opportunities for future generations by:

(1) identifying environmental and resource use limits, to both growth and adverse effects of human activities beyond which the environment or resources will be degraded,

(2) requiring that activities are established in places, and carried out in ways, that support the health, well-being and resilience of the environment and are within those environmental and resource use limits and are compatible with the natural capabilities and capacities of the resources they rely on, ~~and~~

(3) regularly assessing and adjusting environmental and resource use limits ~~and thresholds~~ for activities over time in light of the actual and potential environmental impacts, including those related to climate change, and

(4) promoting activities that reduce, mitigate, or avoid adverse effects on the environment.

- 75 The introduction of the term 'where practicable' weakens the effectiveness of the policy intention and risks undermining the direction of limits being imposed. Reference to 'where practicable' will create uncertainty and give rise to conflict at the implementation stage. This potential uncertainty will create costs, both in terms of administrative costs (through contested decision-making processes) and environmental costs (degradation of the environment).
- 76 The addition of 'beyond which the environment is degraded' sets out an important philosophical direction in the RPS. It could create a race to the bottom, whereby actions should happen until the point of degradation.
- 77 It would be more appropriate to take the opposite approach, for example as taken by the Environment Court in its first Interim Decision of the Proposed Southland Water and Land Plan (par 62), where the court confirmed the appropriateness of a new objective requiring all people involve in land uses that affect freshwater to carry a positive obligation to support health:

*"This direction appears in line with the Treaty principle of active protection and would **impose a positive obligation on all persons exercising functions and powers under the Act to ensure that when using water people also provide for health.** This may have been what Nga Runanga's planning witness was meaning when she referred to the Treaty principles. This direction juxtaposes with the usual line of inquiry as to how health will be impacted by a change in water quality (i.e. the effects of the activity on the environment). The NPS-FM makes clear that providing for the health and wellbeing of waterbodies is at the forefront of all discussions and decisions about fresh water. This is our third key understanding." **Bold my emphasis.***

IM-M1 – Regional plans and district plans

Recommendation

IM-M1 – Regional plans and district plans

Local authorities must prepare or amend and maintain their *regional plans* and *district plans* to:

...

(6) establish clear environmental thresholds and biophysical limits, and manage resource use to conform to these thresholds and limits, for, and limits' on, activities have the potential to adversely affect healthy ecosystem services and intrinsic values, which to support the health, well-being and resilience of the environment.

...

(7) Include provisions that encourage or require reductions in greenhouse gas emissions and improving energy efficiency.

- 78 Consequential amendments to implement the IMP policies (discussed above).

IM-M2 – Relationships

Recommendation

IM-M2 – Relationships

Local authorities must:

...

(3) consult with Otago's communities to ensure policy frameworks adequately respond to the diverse facets of ~~environmental~~ ecological, social, cultural, and economic well-being.

Reason

79 The term 'environmental' has a broad meaning that encapsulates ecological, social, cultural, and economic elements (at least as defined in the Act). Replacing 'environment' with 'ecological' or 'natural environment' will avoid confusion and overlap.

LF-WAI-P3 – Integrated management/ki uta ki tai

Recommendation

LF-WAI-P3 – Integrated management/ki uta ki tai

Manage the use of *freshwater* and *land*, in accordance with tikanga and kawa, using an integrated approach that:

(1) recognises, ~~and~~ sustains ~~and, where degraded or lost, restores~~ the natural connections and interactions between *water bodies* (large and small, surface and ground, fresh and coastal, permanently flowing, intermittent and ephemeral),

(2) sustains and, ~~wherever possible where degraded or lost, restores~~ the natural connections and interactions between *land* and *water*, from the mountains to the sea,

(3) sustains and, wherever possible, restores the habitats of mahika kai and indigenous species, including taoka species associated with the ~~water body~~ bodies,

(4) manages the *effects* of the use and development of *land* to maintain or enhance the health and well-being of *freshwater*, ~~and~~ *coastal water* and associated ecosystems,

(5) ~~requires encourages~~ the coordination and sequencing of regional or urban growth to ensure it is sustainable,

(6) has regard to foreseeable *climate change* risks and the potential effects of climate change on water bodies, including on their natural functioning, and

(7) has regard to cumulative *effects*, and

~~(8) the need to apply~~ applies a precautionary approach where there is limited available information or uncertainty about potential adverse *effects*.

(9) preferentially considers effects against the naturalised flow and unpolluted state of a water body when making flow and quality decisions about the health, well-being and resilience of water bodies and freshwater ecosystems, including when setting limits or environmental outcomes, and

(10) requiring all activities affecting water bodies to support the health, well-being and resilience of relevant water bodies and associated freshwater ecosystems.

(11) Recognise and provide for the human health and well-being benefits that people and communities derive from accessing and using water, including outdoor recreation and harvesting natural resources for personal use.

Reason

- 80 The inclusion of 'restore' and clauses (9) and (10) help implement IMO1 (as recommended in the s42AR report), which expresses an appropriate fundamental paradigm for the RPS appropriately acknowledging that human health and wellbeing relies on the natural environment being in a healthy state. As set out in the evidence of Mr Paragreen and Mr Couper, the state of Otago's freshwater is, in places, effectively degraded (in respect of quality) or overallocated (in respect of quantity). The state of freshwater in the region has resulted in parts of Otago falling well short of meeting the needs and well-being of many people in Otago because it where it is not safe for people to drink or undertake contact recreation in.
- 81 Restoration will therefore be required if IMO1 is to be implemented. In principle, where the environment is not achieving a state of hauora then the policy direction should be to restore the aspect of the environment that is below the identified threshold.
- 82 As set out in the evidence of Mr Paragreen, harvesting wild animals and plants has important cultural and human wellbeing values that enabled people to provide for their social, economic, and cultural well-being and for their health and safety.
- 83 Ecosystem health and ecosystem services should not be interpreted as being limited to indigenous ecosystem values only. For example, the NPSFM meaning of ecosystem health is inclusive of introduced species. The NPSFM prioritises indigenous ecosystems over that of trout and salmon only to the extent that the habitat of trout and salmon is to be protected insofar as this is consistent with the protection of habitats of indigenous freshwater species (policies 9 and 10).
- 84 The habitats of trout and salmon are to be protected provided the habitats of indigenous freshwater species are protected (NPSFM policies 9 and 10).

LF-FW-P12 – Identifying and managing outstanding water bodies

Recommendation

- 85 Amend policy as follows:

LF-FW-P12 – ~~Protecting~~ Identifying and managing outstanding water bodies

~~The significant and outstanding values of outstanding water bodies are:~~

- ~~(1) identified in the relevant regional and district plans, and~~
- ~~(2) protected by avoiding adverse effects on those values.~~

Identify outstanding water bodies and their significant and outstanding values in the relevant regional plans and district plans and protect those outstanding and significant values by avoiding adverse effects on them, except as provided by EIT-INF-P13 and EIT-INF-P13A.

Reason

- 86 Minor plan drafting matter to clarify that it is the 'outstanding and significant' values that are to be protected. Also more consistent with the terminology used in LF-FW-M5.

LF-FW-P13 – Preserving natural character and instream values

Recommended amendment

LF-FW-P13 – Preserving natural character and instream values

...

establishing environmental flow and level regimes and water quality standards that support the health, and well-being and resilience of the water body,

wherever practicable possible, sustaining the form and function of a water body that reflects its natural behaviours,

...

(ii) for other effects on the natural character or rivers (excluding those managed under (1)(b)(i)), the effects management hierarchy (in relation to natural wetlands and rivers) in LF-FW-P13A

(b) any consent is granted subject to conditions that apply the effects management hierarchies hierarchy (in relation to indigenous biodiversity) in (1)(b)(i) and the effects management hierarchy (in relation to natural wetlands and rivers) in (1)(b)(ii) in respect of any loss of values or extent of the river,

(3) establishing environmental flow and level regimes and *water* quality standards that support the health and well-being of the *water body*, acknowledging that environmental flow and level regimes may change over time due to climate change

(7) preventing permanent modification that would reduce the braided character of a river, unless the modification is necessary to avoid or mitigate risk to people's health and safety, and

Reason

87 The amendments above provide clearer direction compared to the s42A version.

88 As discussed in the s42A Report and evidence of Mr Paragreen, Fish and Game is no longer seeking specific reference to the habitat of trout and salmon in this provision on the basis alternative relief can be provided in the freshwater provisions (not subject to this hearing).

LF-FW-P13A – Effects management hierarchy (in relation to natural wetlands and rivers)

Recommendation

89 Reference to 'natural wetlands' should be amended to 'wetlands'. While this approach is more stringent than the direction in the NPSFM, the regional council is required under its functions under s.30(ga) to establish, implement, and review of objectives, policies, and methods for maintaining indigenous biological diversity; and the NPSFM allows regional council protections on wetlands to be more stringent than the NPSFM directives and there has been such extensive depletion of Otago's low-lying wetlands that it is appropriate for the RPS to provide some level of protection for all wetlands in the Region.

LF-FW-P14 – Restoring natural character and instream values

Recommendation

LF-FW-P14 – Restoring natural character and instream values

Where the natural character or instream values of *lakes* and *ivers* ~~and~~ or the natural character of their margins has been reduced or lost, ~~promote~~ require actions that:

- (1) restore a form and function that reflect the natural behaviours of the *water body*,
- (2) improve *water* quality or quantity where it is *degraded*,
- (3) increase the presence, *resilience* and abundance of indigenous flora and fauna, including by providing for fish passage within *river* systems and creating fish barriers to prevent predation where necessary,

Reason

- 90 The chapeaux should use the term 'require' rather than 'promote' and the relief sought by Fish and Game for specific reference to the habitat of trout and salmon is appropriate (for the reasons stated above, in the submission by Fish and Game, the evidence of Mr Paragreen and Mr Couper.

LF-LS-P20 - Land use change

Recommendation

LF-LS-P20 - Land use change

Promote changes in land use or land management practices that support and improve:

- (1) the sustainability ~~and efficiency~~ of water use,
- (2) resilience to the impacts of climate change,
- (3) the health and quality of soil,
- (4) restoration or enhancement of indigenous vegetation, or
- (5) amenity and recreation values and the ability of the public to freely access the coastal marine area, lakes and rivers.

Reason

- 91 Deleting 'efficiency' from clause (1) was suggested by Kāi Tahu and is supported by Fish and Game because, among other things, reference to efficiency (in respect of land uses) risks changing the focus to a water quantity issue at the catchment scale.
- 92 Land uses can have dramatic adverse impacts on recreation and access and the amendment above aligns with LF-LS-P22 (Public access).
- 93 It is appropriate to promote land use change that supports and improves the restoration or enhancement of indigenous vegetation (as discussed in evidence above).

LF-LS-M12 – District Plans

Recommendation

- 94 Adopt the s42A version except amend clause (3)(b) as sought by Realnz as follows:

(3) facilitate public access to and along lakes and rivers by:

(a) requiring the establishment of *esplanade reserves* and *esplanade strips*, and

(b) promoting the use of legal roads, including paper roads, and any other means of public access rights, to that connect with esplanade reserves and esplanade strips.

Reason

95 There are a range of ways that public access arrangements can be provided (for example private easements and covenants ensuring public access). These opportunities for enhanced public access arrangements should be provided for and not restricted.

ECO-01 – Indigenous biodiversity

Recommendation

ECO-01 – Indigenous *biodiversity*

Otago's ecosystems and indigenous biodiversity is healthy and thriving and any decline in quality, quantity and diversity is halted.

Objectives still do not recognise the ecosystem part of the chapter. Ecosystems are more than indigenous biodiversity.

Reason

96 As set out in the evidence of Mr Couper ecosystems are more than indigenous biodiversity so the objective should recognise the ecosystem part of the chapter. This approach is also consistent with the definition of ecosystem in the NBEA bill.

ECO-P5 – Existing activities in significant natural areas

Recommended amendment

ECO-P5 – Existing activities in significant natural areas

~~Except as provided for by ECO-P4,~~ Provide for existing activities that are lawfully established and land uses within significant natural areas (outside the coastal environment) and that may adversely affect indigenous species and ecosystems that are taoka, if:

(1) the continuation, expansion, maintenance and minor upgrades of an existing activity that is lawfully established, or an anticipated land use, will not lead to the loss (including through cumulative loss) of extent or degradation of the ecological integrity of any significant natural area or indigenous species or ecosystems that are taoka, and

(2) the adverse effects from the continuation, expansion, maintenance and minor upgrades of an existing activity that is lawfully established, or an anticipated land use, are no greater in character, overall spatial extent, intensity or scale than they were before this RPS became operative.

Reason

- 97 The region's four main ski areas and other lawfully established key visitor destinations are lawfully established activities or land uses (for example zoned land where development is anticipated) contain or may contain SNA (especially in the future if significant ecological restoration initiatives are established, such as at Walter Peak). I consider it is appropriate that these activities are not prevented from expanding or upgrading their infrastructure (to more than a minor extent) simply because they are located within or contain an area of SNA.

ECO-P8 – Restoration and enhancement

Recommended amendment

ECO-P8 – Restoration and enhancement

The extent, occupancy and condition of Otago's indigenous biodiversity is increased by:

- (1) restoring and enhancing habitat for indigenous species, including taoka and mahika kai species,
- (2) improving the health and resilience of indigenous biodiversity, including ecosystems, species, important ecosystem function, and intrinsic values, and
- (3) buffering or linking ecosystems, habitats and ecological corridors, ki uta ki tai
- (4) provide for subdivision, use and development that support 1-4 above.

Reason

- 98 It is appropriate to promote subdivision, use and development which will support the achievement of the matters in clause 1-3.

ECO-M5 – District plans

Recommended Amendment

ECO-M5 – District plans

Territorial authorities must prepare or amend and maintain their district plans to:

...

- (5) provide for activities ~~that promote or undertake the n for the purpose of restoration ing or enhancement ing of~~ the habitats of indigenous flora and fauna, and...

Reason

- 99 I agree with Realnz that District plans should provide for activities which promote as well as undertake the restoration or enhancement of habitats of indigenous flora and fauna

ECO-M8 – Other incentives and mechanisms

Recommendation

ECO-M8 – Other incentives and mechanisms

...

(1) providing information and guidance on the maintenance, restoration and enhancement of ~~indigenous~~ ecosystems, indigenous biodiversity and habitats, taoka and mahika kai species and ecosystems.

...

(7) gathering information on ~~indigenous~~ ecosystems, indigenous biodiversity and habitats, including outside significant natural areas.

Reasons

100 As set out in the evidence of Mr Couper use of 'indigenous ecosystems' is restrictive and should be clarified in (1) and (7). It looks like the s42A author tried to do this but it ends up capturing both indigenous ecosystems and ecosystems generally, as if they're different.

ECO-AER1

Recommended Amendment

There is no further decline in the quality, quantity or diversity of ecosystems and indigenous biodiversity.

Reason

101 Amendments recommended as a consequence to the recommended amendments for ECO-O1 (as discussed above and in the evidence of Mr Paragreen).

ECO-AER2

Recommended Amendment

The quality, quantity and diversity of ecosystems and indigenous biodiversity within Otago improves over the life of this Regional Policy Statement.

Reason

102 Amendments recommended as a consequence to the recommended amendments for ECO-O1 (as discussed above and in the evidence of Mr Couper).

EIT-INF-P13 – Locating and managing effects of infrastructure

Recommended Amendment

EIT-INF-P13 – Locating and managing effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment

When providing for new infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment

...

(2) if it is not ~~possible~~ demonstrably practicable to avoid locating in the areas listed in (1) above because of the functional needs or operational needs of the infrastructure, nationally significant infrastructure and regionally significant infrastructure manage adverse effects as follows:

(a) for nationally significant infrastructure¹⁰⁷⁹ 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-FW-P12,

(iiia) in relation to wāhi tūpuna, in accordance with HCV-WT-P2

(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,

~~(b) for all infrastructure that is not nationally significant infrastructure or regionally significant infrastructure, avoid adverse effects on the values that contribute to the area's outstanding nature or significance.~~

Reason

103 It is not always possible or practical to avoid all adverse effects from infrastructure. Infrastructure could be appropriate if adverse effects are not extensive and the positive effects are significant, depending on the circumstances of each particular case. An example is the upgrading or expansion of existing infrastructure (such as a wharf or jetty on an outstanding freshwater body) where the development may have adverse effects on the landscape values that contribute to the waterbodies outstanding nature or significance but those adverse effects may not be extensive and may not be inappropriate when factoring in other circumstances (for example benefits of the proposal and compatibility with surrounding land uses).

EIT-INF-M4 – Regional plans

Recommended amendment

EIT-INF-M4 – Regional plans

Otago Regional Council must prepare or amend and maintain its regional plans to:

(1) manage the adverse effects of infrastructure activities, including, where appropriate, identifying activities that qualify as minor upgrades, that:

(a) are in the beds of lakes and rivers, or

(b) are in the coastal marine area, or

(c) involve the taking, use, damming or diversion of water or,

(d) involve the discharge of water or contaminants, and

~~(2) require the prioritisation of sites for infrastructure where adverse effects on highly valued natural and physical resources and mana whenua values can be avoided or, at the very least, minimised.~~

Reason

104 Clause 2 is ambiguous and inappropriate because:

- (a) There is no direction or clarify about how regional plans should prioritise sites, and from what types of activities.
- (b) There is no basis for the prioritisation of infrastructure, for example there are no higher order policy directives or exceptional circumstances warranting prioritisation
- (c) Prioritising particular uses could have unforeseen and significant costs and adverse effects on existing or alternative new activities.

EIT-INF-M5 – District plans

Recommended amendment

EIT-INF-M5 – District plans

Territorial authorities must prepare or amend and maintain their district plans to:

(1) require a strategic approach to the integration of land use and nationally significant infrastructure or regionally significant infrastructure,

~~(2) enable planning for the electricity transmission network and National Grid to achieve efficient distribution of electricity,~~

~~(3) map the electricity transmission network, and in relation to the National Grid, and 1094 identify a buffer corridor within which sensitive activities shall generally not be allowed, and~~

(4) manage the subdivision, use and development of land to ensure nationally significant infrastructure or regionally significant infrastructure can develop to meet increased demand,

(5) manage the adverse effects of developing, operating, maintaining, or upgrading nationally significant infrastructure or regionally significant infrastructure, including, where appropriate, identifying activities that qualify as minor upgrades, that are on: (a) the surface of rivers and lakes and on land outside the coastal marine area, and (b) the beds of lakes and rivers,

(6) ensure that development is avoided where: (a) it cannot be adequately served with infrastructure, (b) it utilises infrastructure capacity for other planned development, or (c) the required upgrading of infrastructure is not funded, and

~~(7) require the prioritisation of sites for infrastructure, nationally significant infrastructure and regionally significant infrastructure where adverse effects on those matters are addressed by EIT-INF-P13 and EIT-INF-P13A on highly valued natural and physical resources and mana whenua values can be avoided or, at the very least, minimised.~~

Reason

- 105 In addition to the reasons provided in relation to EITINFM4 above, there is insufficient justification for infrastructure to be prioritised over other existing or potentially new land uses, particularly given there are numerous environmental matters that could be adversely affected by infrastructure. In the absence of any comprehensive spatial plan (undertaken in a fair, transparent and meaningful way with affected and interested parties) clause 7 as supported in the s42A Report presents unknown and potentially significant risks to the environment.

EIT-EN-O2 – Renewable electricity generation

Recommended amendment

The total generation capacity of renewable electricity generation activities in Otago:

(1) is maintained or increased and, if practicable maximised, as far as practicable within environmental thresholds and biophysical limits, and

(2) to continue to contributes to meeting New Zealand's national target for renewable electricity generation.

Reason

- 106 It is not practicably achievable to “maximise” the generation capacity of renewable electricity generation activities (REG) in Otago, nor is it appropriate. reference to ‘maximising’ would require an impractically comprehensive amount of investigation work and public and private investment to be undertaken with the cooperation of most landowners, electricity generators, and affected parties working together to plan, design and construct much more renewable electricity generation that is likely to be needed in the foreseeable future.
- 107 It is appropriate to protect REG from reverse sensitivity effects given the direction in the NPSREG but the policy direction in the NPSREG does not extend to outright protection and the NPSREG does not apply to water allocation. REG activities also have a potential pathway under IM-P12 for contravening environmental limits in certain conditions. On this basis it is not appropriate to automatically protect water taken for hydro electricity generation (including existing water takes) ahead of implementing the NPSFM, which requires the application of TMOTW and prioritisation to the mauri and health wellbeing of the waterbodies and human health before the benefits of REG are to be considered.
- 108 REG in Otago already contributes to meeting New Zealand's national target for renewable electricity generation, and this can be recognised by amending clause 2.

EIT-EN-P1 – Operation and maintenance

Recommended amendment

The operation and maintenance of existing renewable electricity generation activities is provided for where it occurs within environmental thresholds and biophysical limits while minimising its adverse effects.

109 Minimising adverse effects may not always be an appropriate outcome, particularly where existing hydroelectricity generation is taking water to the point a waterbody is overallocated. In such scenarios it could be appropriate to set targets (including timeframes) for reducing water take. EIT-EN-O2 and EIT-EN-M1 already include direction for REG to be undertaken within limits.

EIT-EN-P2 - Recognising renewable electricity generation activities in decision making

Recommended amendment

Recognising renewable electricity generation activities in decision making

Decisions on the allocation and use of natural and physical resources, including the use of fresh water and development of land:

- (1) recognise the national, regional and local benefits of existing renewable electricity generation activities,
- (2) take into account the ~~benefits of need to~~ at least maintaining current renewable electricity generation capacity, and
- (3) recognise that the attainment of increases in renewable electricity generation capacity will require ~~significant~~ development of renewable electricity generation activities.

Reason

110 Recognising and providing for existing and new REG is a matter of national significance to be considered in all decisions affecting REG (in accordance with the NPSREG) except the NPSREG does not apply to water allocation and there is no directive in the NPSREG or any higher order planning document requiring decision makers to:

- (a) Take into account any 'need' to at least maintain current REG capacity in Otago.
- (b) Acknowledge there 'needs' to be a significant increase in REG generation in Otago.

EIT-EN-P3 – Development and upgrade of renewable electricity generation activities

Recommended amendment

EIT-EN-P3 – Development and upgrade of renewable electricity generation activities

The overall security of renewable electricity supply is maintained or improved in Otago within environmental thresholds and biophysical limits through appropriate provision for the development or upgrading of renewable electricity generation activities and diversification of the type or location of electricity generation activities.

Reason

111 These amendments align with the discussion above that development and upgrading of REG should be provided for, within limits.

EIT-EN-P5 – Non-renewable energy generation

Recommendation

EIT-EN-P5 – Non-renewable energy generation

Where use of renewable energy is not practical, avoid the development of non-renewable energy generation activities in Otago and facilitate the replacement of non-renewable energy sources, including the use of fossil fuels, in energy generation.

Reason

- 112 While there is a need to reduce reliance on non-renewable sources of energy in order to address the impacts of climate change, it is not always practical to provide renewable sources of energy at this point in time. For example, in some remote off grid locations where small loads of electricity are sourced by diesel generators (providing either permanent or back up supply) and renewable electricity supply is disrupted or not available.

EIT-TRAN-P19 – Transport system design

Recommendation

EIT-TRAN-P19 – Transport system design

Resilience and adaptability of the transport system supports efficient networks for the transport of people and goods that are sustained, ~~and improved, and responsive to growth~~ by:

- (1) promoting a consolidated urban form that integrates land use activities with the transport system,
- (2) placing a high priority on active transport, and public transport, and private passenger transport services, and their integration into the design of development and transport networks, and
- (3) encouraging ~~regional connectivity, including to key visitor destinations, and~~ improved access to public spaces, including the coastal marine area, lakes and rivers, and key visitor destinations.

Reason

- 113 The relief sought by Realnz and Trojan (NZSki) is to be more appropriate compared to the s42A version because:
- (a) Passenger transport services provide considerable benefits in the same way as public transport services, and even more so where there are no reliable public transport services available.
 - (b) Consideration of transport options to key visitor destinations within the region should be a strategic priority. The s42A version excludes the importance of improving transportation to key visitor destinations within a district and within the region.
 - (c) Key visitor destinations should be identified by ORC or relevant TA, and included in transport strategies.
 - (d) It is unclear what is intended by encouraging regional connectivity, and therefore what associated costs and adverse effects might be “encouraged” by referring to regional connectivity.

HCV-HH-P5 – Managing historic heritage

Recommendation

HCV-HH-P5 – Managing historic heritage

Protect historic heritage by:

(1) requiring the use of accidental discovery protocols in accordance with APP11,

~~(2) avoiding adverse effects on areas or places with special or outstanding historic heritage values or qualities, except in the circumstances where HCV-HH-P7 applies~~

~~(3) avoiding significant adverse effects on areas or places with historic heritage values or qualities, except in the circumstances where HCV-HH-P7 applies~~

(4) avoiding, as the first priority, ~~other~~ adverse effects on areas or places with historic heritage values or qualities,

(5) and where it is demonstrated that adverse effects demonstrably cannot be completely avoided, ~~they are remedied or mitigated~~ remedying or mitigating them, and

(6) recognising that for infrastructure, EIT-INF-P13 applies instead of HCV-HH-P5(1) to (5).

Reason

114 Section 6(f) of the RMA does not require avoidance of historic heritage values. Rather (like the direction for ONFLS) the matter of national importance to be recognised and provided for is the protection of historic heritage from inappropriate subdivision, use, and development.

115 The identification directives in HCVHHP4 inclusive of methodology APP8 set reasonably low thresholds (for example aesthetic and social qualities) that could capture a very large unquantifiable amount of natural and physical resources are highly ambiguous and subject to considerable subjectivity. If HCVHHP5 is not amended (and continues to direct avoiding adverse effects on areas or places with special or outstanding historic heritage values or qualities) then there is an unknown potentially high risk of significant opportunity costs associated with people not being able to subdivide, use and develop resources that adverse effect historic heritage.

NFL-O1 - NFL-O1 – Outstanding and highly valued natural features and landscapes and NFL-P4 – Restoration

Recommended amendments

NFL-O1 – Outstanding and *highly valued natural features and landscapes*

The areas and values of Otago's outstanding and *highly valued natural features and landscapes* are identified, and the use and development of Otago's *natural and physical resources* results in:

(1) the protection of outstanding natural features and outstanding natural landscapes from inappropriate subdivision, use and development, and

(2) the maintenance or enhancement of *highly valued natural features and landscapes*.

(3) the restoration of outstanding and highly valued natural features and landscapes.

NFL-P4 – Restoration

Promote restoration of the areas and values of outstanding and highly valued natural features and natural landscapes where those areas or natural values have been reduced or lost.

Reason

- 116 Amending this policy to include reference to the restoration of outstanding and highly valued natural features and landscapes is appropriate for the reasons set out in the s42A Report.
- 117 Reforestation is also an essential component of reducing greenhouse gas emissions. Much of Otago's landscape values, including land identified as ONL, is actually highly degraded (through the removal of indigenous flora and fauna and agricultural land uses). The RPS should ensure that the outstanding and highly valued landscape protection provisions in the Nature Features and Landscapes section do not lock in the current landscape / status quo and facilitate appropriate land use change – particularly change that supports restoration of the natural environment.
- 118 Clause (1) should be amended to implement the clear legal direction in s6b for protecting ONFLs from 'inappropriate subdivision, use and development'. There is no requirement or imperative to safeguard subjective environmental values and in respect of outstanding natural features and landscapes the clear direction in s6b is to protect these areas from 'inappropriate development'. There is no imperative to protect these features from development or avoid effects from development. The direction to preserve the natural character of water bodies and their margins under 6a is a very separate direction compared to s6b.
- 119 Development and activities in ONFLs can be appropriate even if they result in adverse effects on ONFL values, which are almost always subjective.

UFD-P7 – Rural Areas

Recommended Amendment

The management of rural areas:

...

(8) enables outdoor recreation (including commercial recreation),

(9) facilitates growth or expansion of existing visitor destination places and activities.

Reason

- 120 Recreation and visitor destination locations are not adequately recognised or provided for in the rural area provisions including UFD7.

UFD-M1 – Strategic Planning

Recommended Amendment

UFD-M1 – Strategic planning

Otago Regional Council and territorial authorities:

(6) must individually or jointly develop further regulatory or non-regulatory methods and actions to implement strategic and spatial plans, including to guide the detail of how, when and where development occurs, including matters of urban design, requirements around the timing, provision, and responsibilities for open space, connections and infrastructure, including by third parties, and the ongoing management of effects of urban development on matters of local importance, and any spatial plan shall identify key visitor destinations outside the urban environment, and...

Reason

- 121 Inclusion of the statement ‘and any spatial plan shall identify key visitor destinations outside the urban environment’, as sought by Realnz and NZSki, is appropriate because key visitor destinations outside the urban environment are significant components of a community that are under high transport demand and logical locations for growth.
- 122 Key visitor destinations can host many people (the equivalent size of small towns) for example Cardrona Alpine Resort and Coronet Peak ski areas can currently each host around 5,000 people each day. In order to manage land use and development, including supporting infrastructure, in an integrated and strategic manner spatial Plans should identify key visitor destinations located outside the urban environment.

APP1 - Criteria for identifying outstanding water bodies

Recommendation

- 123 There is no direction in the NPSFM or any other higher order policy document guiding the appropriate methodology for identifying outstanding waterbodies. Therefore, some precaution should be applied to determining the assessment criteria in APP1.
- 124 Given the subjective nature of determining what is and what is not outstanding, it will be important for reasonably comprehensive engagement with local people and communities to be undertaken to help identify or verify the region's Outstanding waterbodies.

APP6 – Methodology for natural hazard risk assessment

Recommendation

- 125 The policy directives in HAZNHP3 and HAZNHP4 are very restrictive, for example the strong directive for ORC under HAZNHP3(2) to remove or restricting existing land uses where land uses to people or property (where there is significant risk (in relation to natural hazards). Taking such action is relatively drastic and will result in significant costs to people and property.

- 126 Due to the significant potential and unknown costs it is very important that the methodology in APP6 does not carry any legal weight or priority nor set unreasonably low thresholds for determining what is a significant natural hazard risk without fair and transparent community input into the formulation of the risk determinants.
- 127 The consequence table, as recommended in the s42A Report, potentially includes impractically low thresholds. For example, the alpine fault is expected to rupture more than once every thousand years and presumably a major earthquake will be modelled to result in more than 10 people dying each time.

APP9 – Identification criteria for outstanding and highly valued natural features, and landscapes and (including seascapes)

Recommendation

- 128 Amend the criteria to:
- (a) Require community consultation as sought in the submissions by Realnz and NZSki.
 - (b) Expand the criteria to provide more guidance about how the landscape 'capacity' directives set out in NFL-P1 and CE-P6 are to be implemented.

Reason

- 129 The subjectivity of landscape values warrants a methodology that requires community consultation, particularly to identify or verify the use values associated with people's appreciation and use of natural resources.
- 130 In respect of highly valued natural features and natural landscapes, the criteria should be expanded to more explicitly encompasses the use values associated with people's appreciation of, and recreational use of natural resources.
- 131 The methodology should be developed further if decisions are to be made to establish whether a natural feature, landscape or seascape is outstanding as seems to be directed by NFL-P1 and CE-P6.

S32AA SUMMARY

- 132 In summary, for reasons set out in my evidence above, the amendments I recommend should individually and collectively:
- (a) More appropriately implement Part 2 and the national directions as relevant.
 - (b) Result in more socioeconomic, environmental and human health and wellbeing benefits compared to amendments recommended in the s42 Report.

- (c) Not result in any significantly worse adverse environmental effect. In terms of environmental and financial costs I assume that degraded parts of the natural environment need to be appropriately protected and restored to enable current and future generations provide for their social, economic, and cultural well-being and for their health and safety. From an intergenerational perspective it is my assumption that the longer it takes to remedy or restore degradation then the more expensive on people it will be. In this regard where environmental restoration is required my evidence assumes the generally well understood principle that costs of action are dwarfed by the costs of inaction.
- (d) Generally align with or not offend manawhenua cultural values (this will be tested through the course of the hearing and evidence exchanges).

CONCLUSION

- 133 Upon consideration of the relevant policy direction, and reliance on many of the findings and recommendations set out in the s42A Report and my own experience with the practical application of RMA plans and processes in Otago, the amendments I recommend are more appropriate compared to the notified and s42Report versions of the pRPS.
- 134 In conclusion, the amendments I recommend should suitably accord with the purpose of the RMA. At a minimum the RPS should be more aligned with the purpose of the RMA and better implement the relevant matters set out in Part 2 in a more efficient and effective manner compared to the notified or s42Report versions.

Ben Farrell

28 November 2022