

BEFORE THE HEARINGS PANEL APPOINTED BY THE
OTAGO REGIONAL COUNCIL

IN THE MATTER OF of the Resource Management Act 1991 (“the Act”)

AND

IN THE MATTER OF the Proposed Otago Regional Policy Statement 2021
Hearing

SUBMITTER Queenstown Airport Corporation

**STATEMENT OF EVIDENCE BY KIRSTY O’SULLIVAN ON BEHALF OF THE
QUEENSTOWN AIRPORT CORPORATION (SUBMITTER 0313, FURTHER
SUBMITTER FS00313)**

23 NOVEMBER 2022

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1. QUALIFICATIONS AND EXPERIENCE

- 1.1 My name is Kirsty O'Sullivan. I am an Associate with Mitchell Daysh Limited, which practices as a planning and environmental consultancy firm throughout New Zealand. I have been working for Mitchell Daysh Limited since May 2013 and have held the position of Associate since 2018.
- 1.2 I hold a degree in Physical Geography and Geographic Information Systems from the University of Otago, and a Master of Planning degree from the University of Otago.
- 1.3 I have over 13 years' experience in environmental resource planning and management consultancy. My professional experience includes a mix of central government, local authority, and consultancy resource management work. Over the past nine years, I have focused on providing consultancy advice with respect to regional and district plans, plan changes, resource consents, designations, and environment effects assessments.

2. EXPERT WITNESS CODE OF CONDUCT

- 2.1 While this is not a hearing before the Environment Court, I confirm that I have read, and agree to comply with, the Environment Court's Code of Conduct for Expert Witnesses (Environment Court of New Zealand Practice Note 2014). This evidence I am presenting has been prepared in accordance with the Code and is within my area of my expertise, except where I state that I am relying on the evidence of another person. To the best of my knowledge, I have not omitted to consider any material facts known to me that might alter or detract from the opinions I express.

3. BACKGROUND CONTEXT AND SCOPE OF EVIDENCE

- 3.1 This brief of evidence relates to the submissions made on the provisions contained in the Proposed Otago Regional Policy Statement 2021 ("**Proposed RPS**") that impact upon the functions of QAC as the owner and operator of the nationally and regionally significant Queenstown Airport.

- 3.2 Queenstown Airport is the main Airport in the Queenstown Lakes District and is the primary take-off and landing point for much of the aircraft activity in the District. The Airport accommodates aircraft movements associated with scheduled, general aviation and helicopter operations. The Airport acts as gateway to the Queenstown Lakes District, and wider Otago region, and facilitates access and economic activity in the local and broader regional economies. It is also a provider of emergency services and is a lifeline utility under the Civil Defence Emergency Management Act 2002 (“**CDEM 2002**”).
- 3.3 Queenstown Airport is managed by QAC. QAC is a network utility operator and a requiring authority in terms of the Resource Management Act 1991 (“**the Act**” or “**the RMA**”) and the Queenstown Airport site is designated in the Queenstown Lakes District Plan for “Aerodrome Purposes” (Designation 2) and “Approach and Land Use Controls” (Designation 4).
- 3.4 QAC provides aeronautical infrastructure and associated facilities required for the operation of the Queenstown Airport. More than 60 businesses are based at Queenstown Airport, with approximately 700 people employed across the wider airport precinct, providing a broad range of services.
- 3.5 Queenstown Airport provides a domestic and international entry point to Queenstown, and direct access to the Southern Lakes region. It is estimated¹ that one third of all visitor arrivals to the region come by air, which in turn supports the region’s tourism industry and commerce more generally. The Airport is also a base for general aviation activities, including flightseeing and other commercial operations, search and research, life flights and other emergency services.
- 3.6 The ongoing ability of Queenstown Airport to operate and serve the communities of the wider region without undue constraint is therefore of significant importance to business and the economy, both regionally and nationally.

¹ By QAC.

- 3.7 Queenstown Airport is a vital resource for the Otago region. It plays an integral role in providing for the economic and social wellbeing of the region. The Airport is therefore appropriately defined as nationally and regionally significant infrastructure in the Proposed RPS and regionally significant infrastructure in the Proposed Queenstown Lakes District Plan.
- 3.8 The Proposed RPS directly influences QAC's ability to maintain, operate, develop, and upgrade the nationally and regionally significant infrastructure it provides. Therefore, the infrastructure outcomes of the Proposed RPS must ensure they provide a suitable pathway for QAC to continue to provide these critical functions.
- 3.9 Functional, technical, operational and safety related constraints often influence the location of important infrastructure, such as airports and their associated navigation infrastructure. In the case of Queenstown Airport, providing for its ongoing operation and use and protecting it from potential reverse sensitivity effects is of national and regional significance. As a result, planning provisions need to be flexible enough to allow infrastructure development in certain situations, so as not to preclude this infrastructure, which is critical to the social and economic wellbeing of Otago communities.
- 3.10 Against this background, it is clear that QAC has a significant interest in the Proposed RPS and the policy framework it establishes for nationally significant infrastructure and regionally significant infrastructure throughout the region and any implications of the currently drafted provisions which could unduly constrain or curtail its current and future operation and growth.

Documents Reviewed

- 3.11 In preparing this statement of evidence, I have reviewed:
- 3.11.1 The Proposed RPS as notified;
 - 3.11.2 QAC's submission and further submission on the Proposed RPS;

- 3.11.3 The relevant sections of the section 32 evaluation of the Proposed RPS;
 - 3.11.4 The relevant sections of the section 42A reports of the Proposed RPS;
 - 3.11.5 The updated Proposed RPS (as available on the Otago Regional Council (“ORC”) website); and,
 - 3.11.6 The relevant supplementary statements of evidence prepared by / on behalf of the ORC.
- 3.12 I have had no prior involvement in the preparation of QAC’s submission or further submission on the Proposed RPS.

Structure of Evidence

- 3.13 In this statement of evidence I discuss the key provisions of interest to QAC on a chapter by chapter basis. Where common themes apply, I discuss them at length the first time the theme arises and cross reference back to that rationale as appropriate throughout my evidence.
- 3.14 Set out in Appendix A is a marked up version of my recommended changes to the Proposed RPS.

4. CHAPTER 1 – INTRODUCTION AND PLANNING CONTEXT - GENERAL THEMES

- 4.1 QAC filed submissions with respect to Part 2 – Integrated Management and the use of the term “environmental limit”. I discuss this matter with respect to the Policy IM-P14 in paragraphs 6.9 to 6.13 of my statement of evidence.

5. CHAPTER 3 – INTERPRETATION (DEFINITIONS AND ABBREVIATIONS)

- 5.1 QAC filed three submissions with respect to the definitions contained within Part 1 – Interpretation. Specifically, QAC sought for the definitions

of “regionally significant infrastructure”, “nationally significant infrastructure” and “specified infrastructure” to be retained as notified.

- 5.2 The section 42A report does not include any relevant discussion on these interpretations.
- 5.3 For the reasons set out in section 3 of my evidence, I consider it is appropriate for Queenstown Airport to be included in the definition of regionally significant infrastructure and support the ongoing retention of this definition.
- 5.4 I also support the definitions of “nationally significant infrastructure” and “specified infrastructure”, where they are consistent with and are used with in association with provisions that seek to give effect to higher order planning documents, such as the National Policy Statement for Freshwater Management 2020 and the National Policy Statement for Urban Development 2020.

6. CHAPTER 6 – INTEGRATED MANAGEMENT

- 6.1 QAC filed four submissions with respect to the provisions contained within Part 2 – Integrated Management. Specifically, QAC sought the deletion of IM-P2 and IM-P14, deletion or refinement of IM-P1 and an amendment to IM-P9.

IM-P1 and IM-P2

- 6.2 The section 42A report² agrees with the submission made by QAC in that:

“... the ordinary principles of interpretation apply to the IM chapter. When considering the provisions of an RPS, I consider it is standard practice to consider all of the provisions together and according to the terms in which they are expressed... and I also agree that IM-P1 is more akin to guidance”.

- 6.3 The report goes on conclude that:

² Section 6.12.3, paragraph 166-167, page 35 of Chapter 6 Section 42A Report.

“despite this, I do not recommend deleting the policy...given that that this chapter is relevant to all other chapters of the pORPS, I consider it may assist plan readers to retain the policy so that there is clarity on this relationship”.

6.4 Furthermore, in later discussions³, it is noted that:

“IM-P1 provides direction for decision-makers on applying the provisions of the pORPS and consider that the type of direction provided by IM-P2 would be better included in that policy. In my view, IM-P1 sets out the basic approach to interpretation of provisions (i.e. readers are to consider all relevant provisions and then consider them on the terms in which they are expressed), I consider that the intent of IM-P2 as described in the section 32 evaluation report is the next step in this process of consideration and recommend incorporating IM-P2 into a new clause (3a) in IM-P1”.

6.5 As such, the section 42A report has now recommended integrating IM-P1 and IM-P2 into one policy.

6.6 In my view, the section 42A report suggesting that the policy is “more akin to guidance” appears to understate the application of this policy. The clear intent of the policy, as noted in the commentary within the section 42A report, is to provide a hierarchy around how to apply provisions within the Proposed RPS. This goes beyond “guidance”.

6.7 In my view, Policy IM-P1 (as notified and the subsequent amendment) is unnecessary and could potentially result in perverse outcomes not anticipated or justified in terms of section 32 of the RMA. I therefore agree with QAC’s submission on this matter and consider that the ordinary principles of interpretation can apply and that guidance can be drawn from higher order documents without the inclusion of this policy.

6.8 In the alternative, a further amendment could be incorporated into the revised IM-P1 to make it clear that the policy only relates to the freshwater provisions of the Proposed RPS.

³ Section 6.13.3.1, paragraph 192, pages 40-41 of Chapter 6 of the Section 42A Report.

IM-P14

- 6.9 With regard to IM-P14, QAC sought that the policy be deleted in full, citing concerns around the use of the terms “environmental limits” and “degrade”. Within Council’s supplementary evidence⁴ it was noted that:

“...”limit” as it has been used within the term “environmental limits” was intended by the authors to refer to the general meaning of the word as described in the Oxford Dictionary as “any of the fixed points between which the possible or permitted extent, amount, duration, range of action, or variation of anything is confined; a bound which may not be passed, or beyond which something ceases to be possible or allowable”.

- 6.10 Moreover, this evidence states that:

“...the inclusion of “environmental” has the potential to introduce uncertainty as it is unclear whether that means limits originating in the environment or limits on the environment... In addition, I consider that this has become somewhat confused due to the use of the term and its definition, in the NPSFM. In my view, “limit” is the correct term to use”.

- 6.11 Accordingly, the supplementary evidence recommends the following amendments to IM-P14 (underline show additions, ~~strikeouts~~ show deletions):

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

- (1) identifying ~~environmental~~ limits wherever practicable, to both growth and adverse effects of human activities beyond which the environment will be degraded,*
- (2) requiring that activities are established in places, and carried out in ways, that are within those ~~environmental~~ limits and are compatible with the natural capabilities and capacities of the resources they rely on, and*
- (3) regularly assessing and adjusting ~~environmental~~ limits ~~and thresholds~~ for activities over time in light of the actual and*

⁴ Paragraphs 20-21, page 6 of Supplementary Evidence 01.

potential environmental impacts, including those related to climate change, and

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

6.12 In my view, the Proposed RPS and the amendments recommended within the section 42A report and supplementary evidence do not provide any certainty as to what is meant by the term ‘limits’, the process for setting limits, how they will be expressed in regional or district plans, , nor how ‘degraded’ will be defined. This opens the policy to subjective interpretation.

6.13 Furthermore, by “requiring” activities to be undertaken within “limits”, I am concerned that they will have no regard for the significance or scale of adverse effects where these exceed the “limits” but may be of a less than minor degree. Provisions that require that all adverse effects, regardless of whether these effects are minor or less, to essentially be constrained by “limits” do not take into consideration any proportionality of the loss to gain, or that these effects can be appropriately managed in accordance with section 5 of the RMA. In fact, activities could exceed a “limit”, but the net gains could be positive. Therefore, I do not agree that this is an appropriate outcome and the policy wording as drafted could potentially constrain the development and ongoing operation, use and development of nationally and regionally significant infrastructure throughout the region, and more specifically, Queenstown Airport. I therefore recommend that this policy should be deleted in full.

7. CHAPTER 7 - AIR

7.1 QAC filed two submissions with respect to the provisions contained within Part 3 – Air. Specifically, QAC sought that Air-O2 be amended to include provision for the recognition of safety aspects in respect to visibility for operations in around the region’s airports and flight paths, and AIR-P4 be retained as notified.

7.2 The section 42A report considers that:

“...in relation to the visibility for operations in and around the region’s airports and flight paths is already provided for in Objective AIR-O2 by the reference to ‘amenity values’.

- 7.3 Accordingly, the section 42A report recommends amending the objective to include the term “values” to address the relief sought by QAC.
- 7.4 In my view, reference to “amenity values” does not provide any assurances that the planning framework that would result from these provisions within any subsequent regional air plan would adequately allow for the effects of air discharges on aircraft operations to be considered. I therefore recommend that AIR-O2 should be further amended in line with the recommendations provided in Row 8 of Appendix A of my evidence to ensure that it better achieves the outcomes expressed with respect to human health and safety.

8. CHAPTER 9 – LAND AND FRESHWATER

- 8.1 QAC filed two submissions with respect to the provisions contained within Part 3 – Land and Freshwater. Specifically, QAC sought that LF-FW-P12 was amended to have regard to the scale and significance of adverse effects rather than a blanket avoidance of adverse effects, whilst amendments were also sought for LF-FW-P13 to better provide for the management of adverse effects.
- 8.2 It was noted with the Council’s section 42A report⁵:

“...that the direction in the pORPS is more stringent than the NPSFM and that it may be appropriate to allow some level of adverse effects on the significant values of outstanding water bodies. While I do not consider any of the amendments sought by submitters resolve this matter in an appropriate way, I am not opposed to including a degree of flexibility in this policy”.

⁵ Section 9.7.4.4, paragraph 779, page 168 of Chapter 9 of the Section 42A Report.

- 8.3 Accordingly, the section 42A report recommends amendments are made that reflect this stance, and reference to the use of the term “avoid” removed.
- 8.4 In relation to LF-FW-P13, the amendments that were recommended within the section 42A report were intended to provide further clarity about the management of effects where relevant, and notably include a new LF-FW-P13A which outlines the effects management hierarchy to be followed where adverse effects need to be managed in relation to natural wetlands and rivers (in general accordance with that National Policy Statement for Freshwater Management 2020).
- 8.5 I consider that the amendments and subsequent reasoning that have been made to provisions LF-FW-P12 and LF-FW-P13 are reasonable. In my opinion, it would be useful to reinstate the original “carve out” that applies to infrastructure however, to ensure there is clear guidance for resource users on when to apply EIT-INF-P13. In this regard, I note that existing drafting within other sections of the Proposed RPS (refer to HCV-HH-P5) provide a template for how such a carve out could be provided for. This drafting is also reflected in my recommended drafting, as set out in row 10 of Appendix A.

9. CHAPTER 10 – ECOSYSTEMS AND INDIGENOUS BIODIVERSITY / APPENDIX 2, 3, 4 AND 5.

- 9.1 A key theme arising within the Proposed RPS is the retention and protection of identified indigenous biodiversity throughout the region and ensuring that activities which adversely affect these values are appropriately managed.
- 9.2 Several policies have been included in the Proposed RPS under Chapter 10 ECO – Ecosystems and Indigenous Biodiversity. With specific reference to nationally significant and regionally significant infrastructure activities located within significant natural areas (“SNAs”), ECO-P4 and ECO-P6 have been included to provide direction around how the effects of these activities should be managed, with the conventional effects

management hierarchy allowing a consenting pathway for these activities within SNAs.

- 9.3 These policies, as a result of the management hierarchy illustrated within ECO-P6, direct the resource users to APP3 and APP4 where the details regarding the offsetting and compensation pathways for adverse effects of an activity are recorded. These appendices, as currently drafted, set out the criteria for when biodiversity offsetting can be undertaken, and when this pathway is not available. A similar approach is undertaken within APP4 with regard to biodiversity compensation.
- 9.4 QAC's submission generally agrees with the cascading approach that has been developed within this policy, however QAC considers that when this policy is considered alongside the limits or constraints set out in APP3 and APP4, the policy becomes unworkable in certain circumstances. Specifically, 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.
- 9.5 QAC's submission points on these matters also suggest that the approach used within APP3 and APP4 is also inconsistent with section 104(1)(ab) of the RMA.
- 9.6 The section 42A report⁶, in responding to QAC's submission, does not consider that ECO-P6 is "... *inconsistent with s104(1)(ab) of the RMA as a pathway has been provided for offsetting and compensation*".
- 9.7 The section 42A report, goes on to note that:

"...an applicant may propose something else, and it will be tested against what is in the pORPS or lower order plans, and a decisionmaker may prefer what the applicant has proposed in a particular case". As a result,

⁶ Section 10.8.5.3, paragraph 260, pages 56-57 of Chapter 10 of the Section 42A Report; Section 10.29.2, paragraph 574, page 122 of Chapter 10 of the Section 42A Report.

the section 42A report does not consider there is any inconsistency between s104(1)(ab)”.

- 9.8 In my view, the current drafting of criteria within APP3 and APP4, or more specifically, when offsetting or compensation is not available, is too restrictive at a regional policy level and undermines the objective of providing for biodiversity offsetting or environmental compensation as a management tool in suitable circumstances. It may be that a decision maker decides, based on the evidence before them, that the loss of individuals of certain species is unacceptable and cannot be appropriately offset. However that decision should be made on the evidence and in accordance with other policy directives. The current drafting of the criteria within APP3 and APP4 preclude that scenario from being considered, at least insofar as regionally significant infrastructure is concerned.
- 9.9 To rectify this issue and enhance the clarity of the provisions and guidance to resource users, it is my view that such provisions be amended to remove the relevant clauses that set unreasonable limits on when biodiversity offsetting and compensation are available as a management response so as to achieve consistency with recommended best practice for biodiversity offsetting and compensation.
- 9.10 Alternatively, the relevant criteria within APP3 and APP4 should not apply to effects arising from regionally significant infrastructure, which is otherwise managed via EIT-INF-P13.

10. CHAPTER 11 – ENERGY, INFRASTRUCTURE, AND TRANSPORT

Infrastructure

- 10.1 As set out in section 3 of my evidence, Queenstown Airport is a significant contributor to the local, regional, and national economy. QAC’s activities result in significant direct and indirect employment opportunities for the region and facilitates the movement of people and goods which supports the local and regional economies, including tourism.

- 10.2 Furthermore, the Queenstown Airport plays an important social role as a lifeline utility under the CDEM 2002. The Queenstown Airport constitutes transport infrastructure that is crucial to the effective response to emergency management situations that may arise. Under section 60 of the CDEM 2002, QAC has a duty to ensure that Queenstown Airport can function to the fullest possible extent during and after an emergency.
- 10.3 The Proposed RPS attempts to facilitate and provide for significant infrastructure within the region, however, the inclusion of various terms within these provisions weakens this position and ultimately does not provide clarity or clear direction for infrastructure providers. There are a number of provisions where nationally significant and regionally significant infrastructure will be unduly restricted by the inclusion of wording that is either not defined in a meaningful way, is not appropriate to be included, or does not align with the purpose of the RMA.
- 10.4 QAC filed a number of submissions with respect to the provisions contained within Part 3 – Energy, Infrastructure and Transport. Specifically, these submissions sought:
- 10.4.1 Amendments to EIT-INF-04 to either remove the reference to “environmental limits” or provide for a re-worded objective to explicitly provide for the protection, maintenance, and enablement of infrastructure to meet the needs of people and communities and to recognise the need for protection from the establishment of incompatible activities;
 - 10.4.2 Amendments to EIT-INF-05 to resolve the concern with regards to the use of the term “minimise” and to provide clearer direction with regards to management of adverse effects;
 - 10.4.3 Retention of EIT-INF-P10 as notified;
 - 10.4.4 Amendment to EIT-INF-P11, similar to the relief sought for EIT-INF-05 to include a clearer hierarchy when referring to the management of adverse effects;

- 10.4.5 Amendment to EIT-INF-P12 to ensure that nationally significant infrastructure and regionally significant infrastructure are provided for by way of a “carve out” to refer to EIT-INF-P15 with regards to reverse sensitivity;
- 10.4.6 A substantial rework of EIT-INF-P13 to better provide for the management of effects and provide clear and reasoned guidance for resource users;
- 10.4.7 Deletion of EIT-INF-P14;
- 10.4.8 Amendments to EIT-INF-P15 to better provide for the protection of nationally significant infrastructure and regionally significant infrastructure in relation to reverse sensitivity effects; and
- 10.4.9 Amendments to EIT-INF-M4 to better provide for the management of effects and provide clear and reasoned guidance for resource users.

Structure of the Infrastructure Provisions

- 10.5 In my view, as a basic principle, the framework within the infrastructure chapter needs to:
 - 10.5.1 Provide for regionally significant infrastructure;
 - 10.5.2 Manage the adverse effects of regionally significant infrastructure; and
 - 10.5.3 Manage adverse effects of incompatible activities on regionally significant infrastructure.
- 10.6 The objectives within the EIT-INF section of the Proposed RPS, as notified, currently conflate these matters and do not provide a sound framework for the policies that follow. Specifically, EIT-INF-O4 almost achieves the first point but seeks to do it within “limits”. As previously discussed in paragraphs 6.9 to 6.13, it is not clear what this means.

10.7 In terms of EIT-INF-O5 specifically, it is not clear what the intent of this objective is as it appears to conflate various outcomes, including the development and coordination of nationally significant infrastructure and regionally significant infrastructure with land use change, avoiding and minimising environmental effects, and ensuring efficiency and delivery, operation and use of nationally significant infrastructure and regionally significant infrastructure. Curiously, it only applies to nationally significant infrastructure and regionally significant infrastructure and not to other forms of infrastructure that would more readily and frequently require “integration” with surrounding land uses.

10.8 Furthermore, in the context of Queenstown Airport, while the heading for the objective is “integration”, it is not clear what the integration outcome is that this objective is trying to achieve. Integration or co-ordination of land use change (such as noise sensitive activities), in such a way that avoids or minimises adverse effects on the environment (for example, preventing or reducing noise effects to the smallest degree possible), would likely result in curtailment of activities at the airport, which would not increase the efficiency or delivery of the infrastructure

10.9 QAC’s submission sought to separate EIT-INF-O5 into three separate parts, thus improving the clarity of the objective. While this approach is preferable to the current drafting of EIT-INF-O5, in my view, if sufficient scope is available (through QAC’s submission or “collective scope”), it would be more appropriate for the chapter to have three objectives that seek to achieve the outcomes described in paragraph 10.5. This would create a clear connection between the objectives and policies that seek to implement them. As currently drafted, this connection and relationship is not always clear – for example, which objective is the directive EIT-INF-P15 seeking to implement and is the outcome sought from the relevant objective sufficiently directive to warrant the dissuasive drafting of EIT-INF-P15?

10.10 In my view, the general framework could be structured as follows:

Objective Theme	Policy that implements the objective
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The effects of regionally significant infrastructure are appropriately managed.	<ul style="list-style-type: none"> • EIT-INF-P11 • EIT-INF-P13
The effects of activities and land use development on regionally significant infrastructure are appropriately avoided.	<ul style="list-style-type: none"> • EIT-INF-P15
Regionally significant infrastructure is efficient, and its operation and use provided for.	<ul style="list-style-type: none"> • EIT-INF-P10 • EIT-INF-P12

10.11 Specific drafting of the relevant objectives is provided in rows 15 and 16 of Appendix A.

Avoid and Minimise

10.12 As a more general note relevant to a number of provisions within the Energy, Infrastructure and Transport section of the Proposed RPS, a number of provisions require adverse effects to be “avoided” or “minimised”. QAC made a number of submissions with respect to such provisions.

10.13 With respect to these submissions, the Councils report notes that:

“I consider the amendment concerning “avoids, remedies or mitigates adverse effects” provides little direction as to the outcome of this objective, whereas “minimise“ seeks to reduce effects as much as possible, while recognising that there may be residual effects”.

10.14 The report carries this same position through the analysis as follows:

“Policy EIT–INF–P13 provides a framework for all infrastructure and gives interpretive meaning to how the “seek to avoid effects on significant resources” approach is to be managed, by avoiding as the first priority locating in those areas. The approach is similar to that taken in Policy 4.3.4 in the operative ORPS. If avoidance is not possible because of the

functional or operational needs of infrastructure (noting that this is now defined under the National Planning Standard definitions), then the approach is to minimise adverse effects as far as practicable for nationally or regionally significant infrastructure, on the areas that contribute to the area’s significance. For all other infrastructure, the direction is to avoid adverse effects on the values that contribute to the area’s significance”

- 10.15 While I understand that the use of the terms “avoid” and “minimise” (individually) have been used within a number of National Policy Statements,⁷ and also to some extent within the Partially Operative RPS,⁸ insofar as it relates to specified or regionally and nationally significant infrastructure, it has generally been included within a cascade of “management hierarchy”, rather than avoidance or minimisation of effects being the only option available for an effects management response.
- 10.16 As the Panel will be aware as a result of the Supreme Court’s ruling in the *Environmental Defense Society Incorporated v The New Zealand King Salmon Company*² and subsequent case law, care must be taken when including provisions policies and plans require resource users to “avoid” adverse effects. In accordance with the guidance provided by the *King Salmon* decision the use of such policies could effectively act as a prohibition for certain activities.
- 10.17 Where avoidance cannot be achieved, the management response then falls to minimisation. The term “minimise” is not defined within the Proposed RPS and therefore creates ambiguity in its interpretation and implementation. The dictionary definition of minimise generally means to reduce to the smallest possible amount or degree.
- 10.18 In my view, this term could be broadly interpreted and possibly applied inconsistently in the decision-making process. It also does not reflect the range of options available under the Act, or the intent of the Act to manage effects, which is not about minimising. In my view, objectives and

⁷ For example: National Policy Statement for Freshwater Management 2020, and the Proposed National Policy Statement for Indigenous Biodiversity 2022.

⁸ By giving preference to avoidance, in Policy 4.3.4 of the Proposed RPS.

policies should say what they mean. That way, there is no ambiguity or confusion that can arise later when the objective or policy is being applied and interpreted in subsequent plan changes, designations and resource consent applications. If the intention of an objective or policy is to provide an ability to manage adverse effects by avoiding, remedying or mitigating to achieve a specific outcome, then this is what should be explicitly included in its wording.

10.19 Furthermore, I am concerned that the above provisions that seek to avoid or minimise, have no regard for the significance or scale of adverse effects. Provisions that require that all adverse effects, regardless of whether these effects are minor or less, are to be avoided or minimised do not take into consideration any proportionality of the loss to gain. I do not agree that this is an appropriate outcome and could potentially constrain the development and ongoing operation, use and development of nationally and regionally significant infrastructure throughout the region, and more specifically, Queenstown Airport.

10.20 In my view, as a regional level document, such provisions should focus on establishing a policy framework which ensure that adverse effects are appropriately managed, taking into account factors such as the degree of significance or scale of the effect, as well as recognising that in certain circumstances technical and / or operational constraints may mean that adverse effects are inevitable and could also be acceptable because of the public good that accrues. While it appears to be the intent of the Proposed RPS is to achieve this general outcome, further nuancing of the provisions is required to ensure this outcome is achieved.

EIT-INF-P13

10.21 With regards to EIT-INF-P13, the Council's Section 42A report⁹ was generally not supportive of the relief sought by QAC.

10.22 As noted within the section 32 report¹⁰, provision EIT-INF-P13:

⁹ Section 11.6.11.3, paragraph 734.a-g, pages 126-127 of Chapter 11 of the Section 42A Report.

¹⁰ Section 5.9.2.4, paragraph 528, page 155 of the Section 32 Report.

“...applies to all infrastructure and sets out how the adverse effects of infrastructure are to be managed outside of the Coastal Environment, including by prioritising avoiding locating infrastructure in sensitive or highly valued areas, avoiding some types of adverse effects, considering alternatives, having regard to offsets and compensation, utilising opportunities to reduce adverse effects, and managing activities in wetlands according to more specific direction in the LF chapter. This policy recognises the needs of infrastructure and their importance to communities, while encouraging a reduction in adverse effects by a range of means”.

10.23 I have some fundamental concerns with the wording of this policy. These are discussed on a topic basis in the following sections. I note that my evidence on EIT-INF-P13 is focused primarily on regionally and nationally significant infrastructure. In my view, if there are concerns with respect to the applicability of this policy to all infrastructure, it would be appropriate for the policy to be more focused on regionally and nationally significant infrastructure, similar to the approach used in the Partially Operative RPS.

Areas of high or outstanding natural character (Clause (1)(c))

10.24 The Proposed RPS does not contain a policy or methods for requiring the identification or mapping of water bodies (outside the coastal environment) that have outstanding natural character values. Rather, APP1 outlines a specific list of criteria for identifying outstanding water bodies and natural character values. It is my understanding that where areas of natural character are identified outside of the coastal environment, these will be associated with outstanding water bodies. As such, I do not consider that clause (e) of this policy is necessary, as outstanding water bodies are captured in clause (d) and there are no other references to natural character values in the Proposed RPS, aside from the coastal environment and outstanding water bodies.

Areas of high recreation and high amenity value (Clause (1)(h))

10.25 I consider that this policy needs to more closely align with section 6 of the RMA and not conflate section 6 with section 7 where different management approaches are required. Specifically, in subclause (1)(h), the inclusion of “areas of high recreational and high amenity value” within the first tier to “avoid as the first priority” is more in line with section 7 of the RMA, which seeks to “maintain and enhance amenity values”. I consider it to be inappropriate to include this area in subclause (1) where it is clear that this is reserved for section 6 matters.

10.26 Furthermore, in my view, EIT-INF-P13 need not apply to areas of “high recreational and high amenity values”. There are no other higher order documents that specifically require the identification and management of “high recreational and high amenity values” that apply to infrastructure other than the National Policy Statement on Electricity Transmission. Requiring specific management by way of “avoidance” of high recreational and high amenity values for nationally significant and regionally significant infrastructure, other than the national grid, is not justified, and this method has not undergone robust analysis of the costs and benefits that will result from its implementation under section 32 of the RMA.

10.27 With respect to Queenstown Airport, the inclusion of these matters is inherently problematic, given the potential effects of aircraft noise for example, on amenity values. Furthermore, the Airport is surrounded by areas of recreation zoned land, including the Queenstown Events Centre and the area within the Lower Shotover Delta. The Events Centre area is subject to the Aerodrome Purposes Designation, but it is not clear what effect this policy might have on QAC’s future ability to appropriately manage this designation.

Demonstrably Practicable (Clause 2)

10.28 I agree with the supplementary evidence for chapter 11¹¹ where changes have been recommended to clause (2) of EIT-INF-P13, where ‘possible’ has been substituted in favour of the terms ‘demonstrably practicable’. I

¹¹ Paragraphs 42-44, pages 12-13 of Supplementary Evidence 11.

consider the term ‘possible’ is overly broad, in the sense that, often, anything is ‘possible’ however what is possible may not be operationally practicable. The recommended change acknowledges the operational and locational constraints that determine, to a large degree, where infrastructure is located, and I consider that this is an important consideration to take into account when considering whether or not new infrastructure is appropriate in an area.

Significant Natural Areas (Clause 2(a)(i))

- 10.29 As discussed in greater detail above, where it is not “demonstrably practicable” to avoid locating in the areas listed in EIT-INF-P13(1), the policy as drafted, directs the resource user to manage any potential adverse effects within SNAs as per provision ECO-P4. This creates an issue where the effects cascade, as drafted, becomes too restrictive without a pathway to biodiversity offsetting or compensation methods where the activity does not meet the criteria for allowing these methods in the first place.
- 10.30 To address the issues discussed with respect to Chapter 10 and APP3 and APP4, I recommend alternative drafting which provides for a bespoke effects management hierarchy for regionally and nationally significant infrastructure that closely aligns with ECO-P4. In my view, this approach ensures a potential pathway is available for such significant infrastructure, whilst still ensuring there is sufficient discretion available to decision makers to decline an application based on the evidence before them.
- 10.31 With respect to Queenstown Airport, I note that the Lower Shotover Delta is home to many species of indigenous flora and fauna. Should any of this indigenous flora or fauna be considered a SNA and require consideration within APP3 or APP4, there are very limited practicable alternative options available to QAC given its operational and locational constraints. In such circumstances, it is my view that it is appropriate for a *potential* consenting pathway to be made available. This pathway does not provide any assurances that the activity will be able to proceed, however it does not foreclose the opportunity for an application to be made, and the merits of the activity to be considered based on the evidence before the

decision maker, including any offsetting or compensation that might be offered in association with that activity.

EIT-INF-P14

10.32 With regard to EIT-INF-P14, the Council's Section 42A report¹² recommended rejecting the submission by QAC as the policy is "needed to support other provisions and provide clarity for RPS users".

10.33 In my view, the policy as notified still needs to be deleted as subclause 1 appears to be applying what is effectively a test for requiring authorities when establishing a designation, whilst subclause 2 will create implementation issues from a reverse sensitivity perspective and undermines the reverse sensitivity provisions in EIT-INF-P15.

EIT-INF-P15

10.34 With regard to EIT-INF-P15, the section 42A report¹³ states that:

"I agree with the Queenstown Airport submission in part to amend the provision by replacing the current provision with text detailed above. I consider NPSET Policy 10 and Policy 11 on reverse sensitivity matters will be more effectively addressed, and that such considerations can apply equally to other nationally and regionally significant infrastructure. I consider the approach taken achieves on balance a more effective provision than would be provided by other submissions".

10.35 In my view, reverse sensitivity effects are one of the most significant challenges for airports around New Zealand. The intensification of noise sensitive activities establishing adjacent to existing airports will ultimately result in poor land use planning outcomes.

10.36 Due to historic land use development patterns and/or poor policy directives, noise sensitive activities often establish within close proximity to airports. While this is an existing situation that has to be managed, it is important to ensure the efficient and effective operation of airports are

¹² Section 11.6.12.3, paragraph 757, page 132 of Chapter 11 of the Section 42A Report.

¹³ Section 11.6.13.3, paragraph 777, pages 135-136 of Chapter 11 of the Section 42A Report.

not unduly constrained and the reverse sensitivity effects are not exacerbated. This is particularly important in light of ongoing housing pressures, particularly in areas such as Queenstown.

10.37 This policy also tacitly deals with incompatible activities, such as activities that could have a significant safety effect of an airport – such as large buildings within flight paths, lighting etc.

10.38 In my view, and as reflected by commentary in the section 42A report, the protection of regionally and nationally significant infrastructure from adverse effects caused by the encroachment of incompatible activities is a matter that warrants strong regulatory guidance. Without a clear policy stance, reverse sensitivity effects can ultimately lead to the curtailment of activities associated with the Airports, as has been observed at a number of airports in New Zealand and Australia. This would be an outcome with significant adverse effects on the social and economic well-being of the local and regional communities, given the dependence of these economies on activity facilitated by Queenstown Airport, not to mention the risk to the lifeline obligations of the airports.

10.39 I note that QAC's submissions on this provision included proposed amendments seeking that the establishment of activities that may result in adverse reverse sensitivity effects on infrastructure be avoided. While this approach may result in some opportunity costs relating to the loss of development potential for other activities, I consider that on balance, the Proposed RPS should provide strong guidance in relation to this matter in order to adequately provide for the social and economic needs of the community as well as to manage amenity issues.

10.40 To this end and noting the amendments that have been included within the relevant provision discussed above, I support the amendments to the Proposed RPS provision as drafted within the section 42A report where QAC's submission points have been largely recommended to be accepted relating to the protection of infrastructure. As such, I concur and support the amendments within the section 42A report as set out in the table at Appendix A attached.

Transport

10.41 QAC filed one submission with respect to the provisions contained within Part 3 – EIT in respect of the transport provisions. Specifically, QAC sought that TRAN-07 be retained as notified.

10.42 The section 42A report¹⁴ considered the submissions made by a number of parties and concluded within their recommendation that amendments be made to the objective to include “*the effects of climate change, and the changing needs of communities in responding to the challenge of climate change*” as this provides clear reference to climate change resilience which ultimately provides clarity to the outcome sought by the objective.

10.43 I consider that the amendment made to TRAN-07 is acceptable and I agree with the suggested redrafting.

11. CHAPTER 12 – HAZARDS AND RISKS

11.1 QAC filed three submissions with respect to the provisions contained within Part 3 – Hazards and Risks. Specifically, QAC sought that HAZ-NH-P4 subclause (6) to be retained as notified, for HAZ-NH-P9 to be amended to include the term “and operational needs”, and for HAZ-CL-P15 to be amended to remove the term “minimise” and instead replace with “remedy or mitigate” in line with the effects management hierarchy in section 5 of the RMA.

HAZ-NH-P4(6) and HAZ-NH-P9

11.2 The section 42A report recommends relief that aligns with QAC’s submissions with respect to HAZ-NH-(6) and HAZ-NH-P9. I generally support these recommendations and note they are not substantive submission points or changes to the notified provisions.

HAZ-CL-P15

¹⁴ Section 11.7.3.3, paragraph 942, page 167 of Chapter 11 of the Section 42A Report.

11.3 With respect to HAZ-CL-P15, the section 42A report¹⁵ notes that “I agree that the term “minimise” has an element of uncertainty as to how far an activity must go to achieving minimization” noting that the report writer then refers to the dictionary definition for the term minimise which it has been described to mean “to reduce to the smallest possible amount or degree”.

11.4 The section 42A report then goes on to note that:

“... when seeking to “minimise” (reduce to the possible amount or degree) adverse effects on the environment and mana whenua values this might not always result in the most efficient outcomes as significant expense may be required to reduce the effect to the lowest possible amount or degree. Given this I consider a qualifier to the minimise test is appropriate. I disagree with the drafting sought by Queenstown Airport which requires remedying or mitigating adverse effects, as this only allows for actions (remediation and mitigation) to be undertaken once the effect occurs, rather than seeking to reduce the magnitude of the effect. Therefore, I consider a more appropriate qualifier would minimise ‘to the lowest extent practicable’. I consider this drafting ensures the magnitude of the effect is reduced while providing a suitable limit to that reduction”.

11.5 In my view, and as discussed in greater detail in paragraphs 10.12 to 10.20 above, where avoidance cannot be achieved, the management response then falls to minimisation. The term “minimise” is not defined within the Proposed RPS and therefore create ambiguity in its interpretation and implementation.

11.6 In my view, this term could be broadly interpreted and possibly applied inconsistently in the decision-making process. It also does not reflect the range of options available under the Act, or the intent of the Act to manage effects, which is not about minimising. In my view, objectives and policies should say what they mean. That way, there is no ambiguity or confusion that can arise later when the objective or policy is being

¹⁵ Section 12.5.6.3, paragraphs 523-524, pages 129-130 of Chapter 12 of the Section 42A Report.

applied and interpreted in subsequent plan changes, designations, and resource consent applications. If the intention of an objective or policy is to provide an ability to manage adverse effects by avoiding, remedying, or mitigating to achieve a specific outcome, then this is what should be explicitly included in its wording.

- 11.7 As such, to rectify this issue, I am of the opinion that an amendment to policy HAZ-CL-P15 is still required to replace “minimise” with “remedy and mitigate” in line with section 5 of the RMA.

12. CHAPTER 13 – HISTORICAL AND CULTURAL VALUES

- 12.1 QAC filed a submission with respect to the provisions contained within the Part 3 – Heritage and Cultural Values. Specifically, QAC sought that HCV-HH-P5 be amended to better reflect section 6 of the RMA with regards to how the “protection” of historic heritage is to be managed from inappropriate subdivision, use and development.

- 12.2 The Council’s S42A report¹⁶ notes that:

“Section 6 of the RMA provides clear guidance that historic heritage must be protected from inappropriate use, development, or subdivision as a matter of national importance. For a site or feature to be considered to have special or outstanding historic heritage values, it must meet the significance criteria in APP8, which includes criteria related to the significance of the site at a regional or national level. A site or feature that meets these criteria is worthy of protection from adverse effects. It is recommended that the strong policy position for avoiding adverse effects on these sites and features is retained”.

- 12.3 Subsequently, the Council’s report rejects the inclusion of the relief sought, however it is noted that reference to HCV-HH-P7 is included when referring to adaptive re-use for areas or places with outstanding historic heritage values or qualities.

¹⁶ Section 13.6.6.3, paragraph 275, page 61 of Chapter 13 of the Section 42A Report.

- 12.4 In my view, the inclusion of the terms “from inappropriate subdivision, use and development” is clear and direct guidance provided within section 6(f) of the RMA and is neither inappropriate nor a weakening of the policy position to include in this context. Instead, this wording reflects the intent of the Act to manage effects on historic heritage values and qualities where it is considered inappropriate, and then provides a pathway for activities that are deemed appropriate but need to have any adverse effects appropriately managed through the management hierarchy.
- 12.5 Adaptive reuse may result in the contemporary or different use of a heritage feature or asset. This could conceivably result in adverse effects on the area or place of heritage value, while the values that make the area special, or outstanding remain intact. For example, a building valued for its façade could have the rear of the building removed (i.e. a potentially significant adverse effect), however the values of the heritage feature are retained through retention of the façade. In other words, the policy framework needs to provide greater nuancing around the proportionality of heritage loss (i.e. adverse effects on the heritage area or place) to the heritage gain (i.e. the retention of the heritage values).
- 12.6 In my view, HCV-HH-P5 therefore needs to be brought back to values of the area or place, or alternatively, HCV-HH-P7 needs to recognise that adverse effects may arise as a result of adaptive reuse or upgrade and that is an acceptable outcome provided the heritage values are maintained. Proposed drafting to address this matter is set out in row 28 of Appendix A.

13. CHAPTER 14 – NATURAL FEATURES AND LANDSCAPES

- 13.1 QAC filed a submission with respect to the provisions contained within Part 3 – Natural Features and Landscapes. Specifically, QAC sought amendments to the blanket avoidance of effects to ensure that a potential consenting pathway is available for regionally significant infrastructure where it needs to locate within the features and landscapes addressed within Chapter 14. Furthermore, the relief sought included having regard to the scale or significance of the potential adverse effects that may result.

13.2 The section 42A report¹⁷ partly agrees with the submission made by QAC with regard to the scale and significance of effects and agrees with amendments being required to provide more flexibility to contemplate the appropriate subdivision, use and development within these areas of outstanding natural features and landscapes. The report notes:

“I do agree that Section 6(b) is not a ‘no change’ provision. Section 6(b) requires that the protection of outstanding natural features and landscapes are from inappropriate subdivision, use, and development. Therefore, I agree that the requirement within clause (1) to avoid adverse effects on the values that contribute to the natural feature or landscape being considered outstanding, even if those values are not themselves outstanding, provides a very limited window for further appropriate subdivision, use and development to be undertaken in these areas. As such, I agree that amendments are required to provide more flexibility to contemplate appropriate subdivision, use, and development in ONLs and ONFs. I agree in part with the drafting proposed by Matakanui Gold, who have suggested that the avoidance of adverse effects should be linked to the landscape capacity to absorb change. I consider this focus on the capacity of the landscape aligns with NFL-P1 which requires the identification of:

“the capacity of those natural features and landscapes to accommodate use or development while protecting the values that contribute to the natural feature and landscape being considered outstanding or highly valued”.

13.3 Furthermore, within the supplementary evidence¹⁸ notes that:

“I agreed with the submitters that greater clarity was required to clearly set out the linkages between EIT-INF-P13 and NFL chapter and considered the addition of NFL-P7 to the suite of provisions would remedy this matter. Following discussions at the pre-hearing meeting I consider further refinement is required to clarify and streamline the linkages between EIT-INF-P13 and the NFL chapter. I recognise NFL-P2

¹⁷ Section 14.7.3, paragraph 128-129, page 30 of Chapter 14 of the Section 42A Report.

¹⁸ Paragraph 19-20, pages 6-7 of Councils Supplementary Evidence 14 Report

and NFL-P7 both set out to protect the values of outstanding natural features and landscapes. To avoid duplication and potential confusion, it is my view that NFL-P7 should be deleted and a third limb to NFL-P2 be inserted to provide a signpost to EIT-INF-P13”.

- 13.4 Accordingly, the subsequent recommendations include a “carve out” to link NFL-P2 with EIT-INF-P13.
- 13.5 In principle, I consider that the amendments to NFL-P2 and the subsequent reasoning, are acceptable. In terms of the wording to be used within subclause (3), I recommend that the “signpost” used should be consistent throughout the Proposed RPS and note that HCV-HH-P5 provides suitable drafting that could be uniformly applied throughout the Proposed RPS where cross reference back to EIT-INF-P13 is required.

14. CHAPTER 15 – URBAN FORM AND DEVELOPMENT

- 14.1 With respect to Chapter 15, Part 3 – UFD, QAC filed submissions that sought to:
- 14.1.1 retain UFD-O2 subclause (6) as notified and amend subclause (9) to provide for the efficient ongoing maintenance, use, development and upgrades to regionally significant infrastructure; and,
- 14.1.2 amend UFD-P1 and UFD-P3 to include an additional subclause providing for the avoidance of effects on the operation of regionally and nationally significant infrastructure (UFD-P1) and the avoidance of adverse effects, including reverse sensitivity effects on nationally and regionally significant infrastructure (UFD-P3).
- 14.2 The section 42A report reflects on the wider costs to the community associated with adverse effects on significant infrastructure and concludes that in order to support the well-being of the community infrastructure, these should be protected.

- 14.3 Specifically, as noted within the report¹⁹ with regards to UFD-O2, *“the proposed amendments also highlight that development and additional infrastructure are needed prerequisites for urban development and must be closely integrated with urban development, but urban development will need to be managed in proximity to and nationally and regionally significant infrastructure to provide for its use and development”*.
- 14.4 The report goes on to agree that *“Accordingly, the submissions on this clause are accepted in part by splitting into clause (9) (covering development infrastructure) and clause (9A) which addresses the safe and efficient ongoing use of nationally and regionally significant infrastructure and also adding “maintenance, upgrade and development”*”. As such, the amendments recommended above have been carried through within the updated provisions.
- 14.5 In relation to UFD-P1 it is noted within the Councils Section 42A Report²⁰ that, *“I agree that the inclusion of the concept of reverse sensitivity, including on highly productive land will assist in making it clear that strategic planning will be a key means to manage these impacts”*. The report goes on to confirm that *“I recommend the inclusion of a new clause with wording consistent with UFD –O2, which refers to managing conflict between all incompatible activities, with strategic planning also providing the means to set out appropriate methods for how this will be achieved”*. Accordingly, a new subclause (8A) was included to this effect.
- 14.6 Lastly, in relation to UFD-P3, the Councils Section 42A report²¹ acknowledges the importance of nationally and regionally significant infrastructure and the impacts of intensification on these features and therefore agrees with an amendment being required for clarification of these matters. Accordingly, a new subclause (2A) was recommended to be included to address this matter that urban intensification is enabled where it *“does not compromise the safe and efficient ongoing use of*

¹⁹ Section 15.6.3.4, paragraphs 153-154, page 40 of Chapter 15 of the Section 42A Report.

²⁰ Section 15.10.3, paragraph 245-46, page 59 of Chapter 15 of the Section 42A Report.

²¹ Section 15.12.3, paragraph 266, page 65 of Chapter 15 of the Section 42A Report.

nationally significant infrastructure and regionally significant infrastructure”.

- 14.7 As discussed previously with respect to EIT-INF-P15, the protection of regionally and nationally significant infrastructure from adverse effects caused by the encroachment of incompatible activities is a matter that warrants strong regulatory guidance.
- 14.8 To this end, the relevant provisions discussed above, along with additional clauses included within UFD-M2(3)(ea) to include strong “avoidance” language in relation to reverse sensitivity effects read in conjunction with the amended EIT-INF-P15, I support the amendments to the Proposed RPS provisions as drafted within the section 42A report where QAC’s submission points have been largely recommended to be accepted. As such, I concur and support the amendments within the section 42A report as set out in the table at Appendix A attached.

15. CONCLUSION

- 15.1 The Proposed RPS should recognise the significant benefits associated with regionally significant infrastructure activities and their contribution to the social and economic wellbeing of the Otago region. In this regard, I consider that the Proposed RPS requires a number of amendments to ensure it promotes the sustainable management of natural and physical resources and appropriately provides for the social and economic wellbeing of the community. These amendments are set out in Appendix A to this evidence.

Dated: 23 November 2022

Kirsty O’Sullivan

APPENDIX A: K O’SULLIVAN RECOMMENDED AMENDMENTS

Row ID	Proposed Provisions, as described in the Section 42A (black tracking) / Supplementary Evidence (red tracking) (shown insofar is relevant to QAC’s submission)	K O’Sullivan recommended amendments (tracking shown in blue)
1	<p>Regionally Significant Infrastructure</p> <p>means:</p> <p>...</p> <p>(6) the following airports: Dunedin, Queenstown, Wanaka <u>Wānaka</u>, Alexandra, Balclutha, Cromwell, Ōamaru <u>Ōamaru</u>, Taieri.</p> <p>(7) navigation infrastructure associated with airports and commercial ports which are nationally or regionally significant,</p> <p>....</p> <p><i>(13) For the avoidance of doubt, any Any infrastructure identified as nationally significant infrastructure is also regionally significant infrastructure.</i></p>	No further amendments recommended.
2	<p>Definitions:</p> <p>Nationally Significant Infrastructure</p>	
3	<p>Definitions:</p> <p>Specified Infrastructure</p>	
4	<p>IM-P1 – Integrated approach to decision-making</p> <p><u>Giving effect to the integrated package of objectives and policies in this RPS requires decision-makers to consider all provisions relevant to an issue or decision and apply them according to the terms in which they are expressed, and if there is a conflict between provisions that cannot be resolved by the application of higher order documents, prioritise:</u></p> <p><u>(1) the life-supporting capacity and mauri of the natural environment and the health needs of people, and then</u></p> <p><u>(2) the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.</u></p> <p>The objectives and policies in this RPS form an integrated package, in which:</p> <p>(1) all activities are carried out within the environmental constraints of this RPS;</p> <p>(2) all provisions relevant to an issue or decision must be considered;</p> <p>(3) if multiple provisions are relevant, they must be considered together and applied according to the terms in which they are expressed; and</p> <p>(4) notwithstanding the above, all provisions must be interpreted and applied to achieve the integrated management objectives IM-O1 to IM-O4</p>	Delete IM-P1 or refine so it only relates to the management of freshwater provisions.
5	<p>Delete IM-P2.</p> <p>Incorporate IM-P2 into IM-P1 as shown above.</p>	
6	<p>Delete IM-P9 and incorporate the reference to the national target for emissions reduction into IM-O4 as follows:</p>	No further amendments recommended.

Row ID	Proposed Provisions, as described in the Section 42A (black tracking) / Supplementary Evidence (red tracking) (shown insofar is relevant to QAC's submission)	K O'Sullivan recommended amendments (tracking shown in blue)
	<p>Otago's communities, including Kāi Tahu, understand what climate change means for their future, and <u>responses to climate change responses</u> in the region, (including <u>climate change adaptation and climate change mitigation actions</u>);</p> <p>(1) are aligned with national level climate change responses,</p> <p>(2) <u>assist with achieving the national target for emissions reduction</u>, and</p> <p>(3) are recognised as integral to achieving the outcomes sought by this RPS</p>	
7	<p>IM-P14 – Human impact</p> <p>When <u>preparing regional plans and district plans</u>, Ppreserve opportunities for future generations by:</p> <p>(1) identifying <u>environmental limits</u> wherever practicable, to both growth and adverse effects of human activities beyond which the environment will be degraded;</p> <p>(2) requiring that activities are established in places, and carried out in ways, that are within those <u>environmental limits</u> and are compatible with the natural capabilities and capacities of the resources they rely on, and</p> <p>(3) regularly assessing and adjusting <u>environmental limits</u> and thresholds for activities over time in light of the actual and potential environmental impacts, <u>including those related to climate change</u>, and</p> <p>(4) <u>promoting activities that reduce, mitigate, or avoid adverse effects on the environment.</u></p>	Delete IM-P14.
8	<p>AIR-O2 Discharges to Air</p> <p>Human health, amenity <u>values</u> and mana whenua values and the life-supporting capacity of ecosystems are protected from the adverse effects of discharges to air.</p>	<p>Amend the objective as follows:</p> <p>AIR-O2</p> <p>Human health <u>and safety</u>, amenity <u>values</u> and mana whenua values and the life-supporting capacity of ecosystems are protected from the adverse effects of discharges to air.</p>
9	<p>AIR-P4 Avoiding certain discharges</p> <p>Generally <u>Avoid discharges to air that cause noxious or dangerous effects and avoid, as the first priority,</u> discharges to air that cause offensive, <u>or</u> objectionable, noxious or dangerous effects.</p>	No further amendments recommended.
10	<p>LF-FW-P12 – <u>Protecting Identifying and managing outstanding water bodies</u></p> <p>The significant and outstanding values of outstanding water bodies are:</p> <p>identified in the relevant regional and district plans, and</p> <p>protected by avoiding adverse effects on those values.</p> <p><u>Identify outstanding water bodies and their significant and outstanding values in the relevant regional plans and district plans and protect those values by avoiding adverse effects on them, except as provided by EIT-INF-P13 and EIT-INF-P13A.</u></p>	<p>Amend the policy as follows:</p> <p><u>Identify outstanding water bodies and their significant and outstanding values in the relevant regional plans and district plans and protect those values, while recognising that for infrastructure, EIT-INF-P13 applies instead of LF-FW-P12 by avoiding adverse effects on them, except as provided by EIT-INF-P13 and EIT-INF-P13A.</u></p>
11	<p>LF-FW-P13 – <u>Preserving Natural Character and instream values</u></p>	Given the recommended amendments to LF-FW-P12 and EIT-INF-P13, no further amendments are recommended to this policy.

Preserve the natural character and instream values of lakes and rivers and the natural character of their beds and margins by:

1. avoiding the *loss of values* or extent of a *river*, unless:
 - a. there is a functional need for the activity in that location, and
 - b. the effects of the activity are managed by applying:
 - i. for effects on indigenous biodiversity, either ECO-P3 or the effects management hierarchy (in relation to indigenous biodiversity) in ECO-P6 (whichever is applicable), and
 - ii. for other effects (excluding those managed under (1)(b)(i)), the effects management hierarchy (in relation to natural wetlands and rivers) in LF-FW-P13A,
2. not granting resource consent for activities in (1) unless ~~Otago Regional Council~~ the consent authority is satisfied that:
 - a. the application demonstrates how each step of 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) will be applied to the *loss of values* or extent of the *river*, and
 - 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*,
4. wherever possible, sustaining the form and function of a *water body* that reflects its natural behaviours,
5. recognising and implementing the restrictions in Water Conservation Orders,
6. preventing the impounding or control of the level of Lake Wanaka,
7. preventing permanent modification that would reduce the braided character of a *river*, ~~and~~
8. controlling the use of *water* and *land* that would adversely affect the natural character of the *water body*, and
9. maintaining or enhancing the values of riparian margins to support habitat and biodiversity and reduce sedimentation of water bodies.

An additional section has been included as follows:

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

The effects management hierarchy (in relation to natural wetlands and rivers) referred to in LF-FW-P9 and LF-FW-P13 is the approach to managing adverse effects of activities that requires that:

1. adverse effects are avoided where practicable.
2. where adverse effects cannot be avoided, they are minimised where practicable.
3. where adverse effects cannot be minimised, they are remedied where practicable.

Row ID	Proposed Provisions, as described in the Section 42A (black tracking) / Supplementary Evidence (red tracking) (shown insofar is relevant to QAC's submission)	K O'Sullivan recommended amendments (tracking shown in blue)
	<ol style="list-style-type: none"> 4. <u>where more than minor residual adverse effects cannot be avoided, minimised, or remedied, aquatic offsetting is provided where possible,</u> 5. <u>if aquatic offsetting of more than minor residual adverse effects is not possible, aquatic compensation is provided, and</u> 6. <u>if aquatic compensation is not appropriate, the activity itself is avoided.</u> 	
12	<p>ECO-P4 – Provision for new activities</p> <p>Maintain Otago's indigenous <i>biodiversity</i> by following the sequential steps in the <i>effects management hierarchy (in relation to indigenous biodiversity)</i> set out in ECO-P6 when making decisions on plans, applications for <i>resource consent</i> or notices of requirement for the following activities in <i>significant natural areas (outside the coastal environment)</i>, or where they may adversely affect indigenous species and ecosystems that are taoka:</p> <ol style="list-style-type: none"> (1) the development, <u>operation, maintenance</u> or upgrade of <i>nationally significant infrastructure</i> and <i>regionally significant infrastructure</i> that has a <i>functional need</i> or <i>operational need</i> to locate within the relevant <i>significant natural area(s)</i> or where they may adversely affect indigenous species or ecosystems that are taoka, (2) the development of <i>papakāika</i>, marae and ancillary facilities associated with customary activities on Māori land <u>Native reserves and Māori land</u>, (2A) <u>the sustainable use of mahika kai and kaimoana (seafood) by mana whenua,</u>¹ (3) the use of Māori land <u>Native reserves and Māori land</u> in a way that will make a significant contribution¹ to <u>enable mana whenua to maintain their connection to their whenua and enhancing the</u>¹ social, cultural or economic well-being, of takata whenua, (4) activities that are for the purpose of protecting, restoring or enhancing a <i>significant natural area</i> or indigenous species or ecosystems that are taoka, or (5) activities that are for the purpose of addressing a severe and <u>or</u> immediate <i>risk</i> to public health or safety. 	In principle, no issue with the policy subject to further amendments being made to APP3 and APP4.
13	<p>ECO-P6 – Maintaining indigenous biodiversity</p> <p>Maintain Otago's indigenous <i>biodiversity</i> (excluding the coastal environment and areas managed protected under ECO-P3) by applying the following <i>biodiversity effects management hierarchy (in relation to indigenous biodiversity)</i> in decision-making on applications for <i>resource consent</i> and notices of requirement:</p> <ol style="list-style-type: none"> (1) avoid adverse <i>effects</i> as the first priority, (2) where adverse <i>effects</i> demonstrably cannot be completely avoided, they are remedied, (3) where adverse <i>effects</i> demonstrably cannot be completely avoided or remedied, they are mitigated, (4) where there are residual adverse <i>effects</i> after avoidance, remediation, and mitigation, then the residual adverse <i>effects</i> are offset in accordance with APP3, and (5) if <i>biodiversity</i> offsetting of residual adverse <i>effects</i> is not possible, then: <ol style="list-style-type: none"> (a) the residual adverse <i>effects</i> are compensated for in accordance with APP4, and (b) if the residual adverse <i>effects</i> cannot be compensated for in accordance with APP4, the activity is avoided. 	In principle, no issue with the policy subject to further amendments being made to APP3 and APP4.

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14	<p>ECO-M2 – Identification of significant natural areas</p> <p><i>Local authorities must:</i></p> <ol style="list-style-type: none"> (1) in accordance with the statement of responsibilities in ECO-M1, identify the areas and <u>indigenous biodiversity</u> values of <i>significant natural areas</i> as required by ECO-P2, and (2) <u>map and verify</u> the areas and include the <u>indigenous biodiversity</u> values identified under (1) in the relevant <i>regional plans</i> and <i>district plans</i>; <u>no later than 31 December 2030</u>, (3) recognise that indigenous <i>biodiversity</i> spans jurisdictional boundaries by: <ol style="list-style-type: none"> (a) working collaboratively to ensure the areas identified by different <i>local authorities</i> are not artificially fragmented when identifying <i>significant natural areas</i> that span jurisdictional boundaries, and (b) ensuring that indigenous <i>biodiversity</i> is managed in accordance with this RPS, (4) until <u>significant natural areas are identified and mapped in accordance with (1) and (2)</u>, require ecological assessments to be provided with applications for resource consent and notices of requirement that requirement that identify whether affected areas are <i>significant natural areas</i> in accordance with APP2, <u>and</u> (5) in the following areas, prioritise identification under (1) no later than 31 December 2025: <ol style="list-style-type: none"> (a) intermontane basins that contain indigenous vegetation and habitats, (b) areas of dryland shrubs, (c) braided <i>rivers</i>, including the Makarora, Mātukituki and Lower Waitaki Rivers, (d) areas of montane tall tussock grasslands, and (e) limestone habitats. 	<p>Seek for methods to be updated to confirm QLDC have completed the mapping process.</p>
15	<p>EIT-INF-O4 – Provision of Infrastructure</p> <p>Effective, efficient and resilient <i>infrastructure</i>, <u>nationally significant infrastructure and regionally significant infrastructure</u> 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 <u>in within</u> the region, within environmental limits.</p>	<p>Amend EIT-INF-O4 and replace EIT-INF- O5 with the following new objectives:</p> <p>Effective, efficient and resilient <i>infrastructure</i>, <u>nationally significant infrastructure and regionally significant infrastructure</u> 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 <u>in within</u> the region, within environmental limits.</p> <p><u>The adverse effects arising from the development or operation of regionally and nationally significant infrastructure is avoided, remedied or mitigated to the extent practicable, given their operational and locational constraints.</u></p>
16	<p>EIT-INF-O5 – Integration</p> <p>Development of nationally and regionally significant <u>nationally significant infrastructure and regionally significant infrastructure</u> as well as <i>land</i> use change, occurs in a co-ordinated manner to <u>avoid or</u> minimise adverse effects on the <i>environment</i> and increase efficiency in the delivery, operation and use of the <i>infrastructure</i>.</p>	<p><u>Regionally and nationally significant infrastructure is appropriately protected from incompatible subdivision, use and development and reverse sensitivity effects.</u></p>
17	<p>EIT-INF-P10 – Recognising resource requirements</p> <p>Decision making on the allocation or use of <i>natural and physical resources</i> must take into account the <i>functional needs and operational needs of nationally significant infrastructure and regionally significant infrastructure</i>.</p>	<p>No further amendments recommended.</p>
18	<p>EIT-INF-P11 – Operation and Maintenance</p> <p>Except as provided for by ECO – P4, allow for the operation and maintenance of existing <i>nationally significant infrastructure and regionally significant infrastructure</i> while:</p>	<p>Amend policy as follows:</p> <p>EIT-INF-P11 – Operation and Maintenance</p>

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	<ol style="list-style-type: none"> 1. avoiding, as the first priority, significant adverse effects on the environment, and 2. if avoidance is not practicable, and for other adverse effects, minimising adverse effects. 	<p>Except as provided for by ECO—P4, allow for the operation and maintenance of existing <i>nationally significant infrastructure</i> and <i>regionally significant infrastructure</i>. while:</p> <p>3.—avoiding, as the first priority, significant adverse effects on the environment, and</p> <p>4.—if avoidance is not practicable, and for other adverse effects, minimising adverse effects.</p> <p>Or alternatively, keep as is but avoid, remedy mitigate adverse effects.</p>
19	<p>EIT-INF-P12 – Upgrades and development</p> <p>Provide for upgrades to <u>existing</u>, and development of <u>new, infrastructure nationally significant infrastructure or regionally significant infrastructure</u> while ensuring that:</p> <ol style="list-style-type: none"> (1) infrastructure it is designed and located, as far as practicable, to maintain functionality during and after <i>natural hazard</i> events, (2) it is, as far as practicable, co-ordinated with long-term <i>land</i> use planning, and (3) increases efficiency in the its delivery, operation or use of the <i>infrastructure</i> <u>is efficient</u>. 	<p>Seek for an amendment to the policy to include a carve out in reference to EIT-INF-P15.</p>
20	<p>EIT-INF-P13 – Locating and managing effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment</p> <p>When providing for new <i>infrastructure, nationally significant infrastructure and regionally significant infrastructure</i> outside the coastal environment</p> <ol style="list-style-type: none"> (1) avoid, as the first priority, locating <i>infrastructure</i> in all of the following: <ol style="list-style-type: none"> (a) <i>significant natural areas</i>, (b) outstanding natural features and landscapes, (c) <i>natural wetlands</i>, (d) <i>outstanding water bodies</i>, (e) areas of high or outstanding natural character, (f) areas or places of significant or outstanding <i>historic heritage</i>, (g) <u>wāhi tūpuna wāhi tapu, wāhi taoka</u>, and areas with protected customary rights, and (h) areas of high recreational and high amenity value, and (2) if it is not possible demonstrably practicable to avoid locating in the areas listed in (1) above because of the <i>functional needs</i> or <i>operational needs</i> of the <i>infrastructure, nationally significant infrastructure and regionally significant infrastructure</i> manage adverse effects as follows: <ol style="list-style-type: none"> (a) for <i>nationally significant infrastructure</i> or <i>regionally significant infrastructure</i>: <ol style="list-style-type: none"> i. in <i>significant natural areas</i>, in accordance with ECO-P4, ii. in <i>natural wetlands</i>, in accordance with the relevant provisions in the NESF, iii. in <i>outstanding water bodies</i>, in accordance with LF-FW-P12, 	<p>Amend the policy as follows:</p> <p>EIT-INF-P13 – Locating and managing effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment</p> <p>When providing for new <i>infrastructure, nationally significant infrastructure and regionally significant infrastructure</i> outside the coastal environment</p> <ol style="list-style-type: none"> (1) avoid, as the first priority, locating <i>infrastructure</i> in all of the following: <ol style="list-style-type: none"> (a) <i>significant natural areas</i>, (b) outstanding natural features and landscapes, (c) <i>natural wetlands</i>, (d) <i>outstanding water bodies</i>, (e) areas of high or outstanding natural character, (f) areas or places of significant or outstanding <i>historic heritage</i>, (g) <u>wāhi tūpuna wāhi tapu, wāhi taoka</u>, and areas with protected customary rights, <u>and</u> (h) areas of high recreational and high amenity value, and (2) if it is not possible demonstrably practicable to avoid locating in the areas listed in (1) above because of the <i>functional needs</i> or <i>operational needs</i> of the <i>infrastructure, nationally significant infrastructure and regionally significant infrastructure</i> manage adverse effects as follows: <ol style="list-style-type: none"> (a) for <i>nationally significant infrastructure</i> or <i>regionally significant infrastructure</i>: <ol style="list-style-type: none"> v. in significant natural areas, in accordance with ECO-P4, i. in <i>natural wetlands</i>, in accordance with the relevant provisions in the NESF, ii. in <i>outstanding water bodies</i>, in accordance with LF-FW-P12,

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	<p><u>iiia.</u> in relation to wāhi tūpuna, in accordance with HCV-WT-P2</p> <p>in other areas listed in EIT-INF-P13 (1) above, minimise the adverse effects of the <i>infrastructure</i> on the values that contribute to the area's importance,</p> <p>(b) for all <i>infrastructure</i> that is not <i>nationally significant infrastructure</i> or <i>regionally significant infrastructure</i>, avoid adverse effects on the values that contribute to the area's outstanding nature or significance.</p> <p>EIT-INF-P13A – Managing the effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure within the coastal environment When managing the effects of <i>infrastructure, nationally significant infrastructure and regionally significant infrastructure</i> within the coastal environment the provisions of the CE – Coastal environment chapter apply.</p>	<p><u>iiia.</u> in relation to wāhi tūpuna, in accordance with HCV-WT-P2</p> <p>iii. in other areas listed in EIT-INF-P13 (1) above, <u>manage</u> the adverse effects of the <i>infrastructure</i> on the values that contribute to the area's importance <u>by</u>:</p> <p>(i) <u>Avoiding adverse effects, where practicable,</u></p> <p>(ii) <u>Where adverse effects cannot be practicably avoided, they are remedying to the extent practicable,</u></p> <p>(iii) <u>Where adverse effects cannot be practicably remedied, they are mitigated to the extent practicable. remedying to the extent practicable,</u></p> <p>(iv) <u>In significant natural areas, where more than minor residual adverse effects on biodiversity values cannot be avoided, remedied or mitigated, offsetting and/biodiversity compensation must be considered in accordance with APP3 and/or APP4,</u></p> <p>(b) for all <i>infrastructure</i> that is not <i>nationally significant infrastructure</i> or <i>regionally significant infrastructure</i>, avoid adverse effects on the values that contribute to the area's outstanding nature or significance.</p> <p><u>(3) in other areas outside the areas listed in (1) above, avoid, remedy or mitigate adverse effects of regionally or nationally significant infrastructure and when considering any residual adverse effects on indigenous biodiversity values consider offsetting measures and compensation.</u></p>
21	<p>EIT-INF-P14 – Decision making considerations</p> <p>When considering proposals to develop or upgrade infrastructure:</p> <ol style="list-style-type: none"> require consideration of alternative sites, methods and designs if adverse effects are potentially significant or irreversible, and utilise the opportunity of substantial upgrades of infrastructure to reduce adverse effects that result from the existing infrastructure, including on sensitive activities. 	Delete policy EIT-INF-P14.
22	<p>EIT-INF-P15 – Protecting nationally significant infrastructure or and regionally significant infrastructure</p> <p>Seek to avoid the establishment of activities that may result in reverse sensitivity effects on nationally or regionally significant infrastructure, and/or where they may compromise the functional or operational needs of nationally or regionally significant infrastructure.</p> <p><u>Protect the efficient and effective operation of <i>nationally significant infrastructure</i> and <i>regionally significant infrastructure</i> by:</u></p> <ol style="list-style-type: none"> <u>avoiding activities that may give rise to an adverse effect on the functional needs or operational needs of <i>nationally significant infrastructure</i> or <i>regionally significant infrastructure</i>,</u> <u>avoiding activities that may result in reverse sensitivity effects on <i>nationally significant infrastructure</i> or <i>regionally significant infrastructure</i>, and</u> <u>avoiding activities and development that foreclose an opportunity to adapt, upgrade or develop <i>nationally significant infrastructure</i> or <i>regionally significant infrastructure</i> to meet future demand.</u> 	No further amendments recommended.
23	EIT-INF-M4 – Regional plans	Amendment sought as per original submission point to reflect section 5 of the RMA to “avoid, remedy and mitigate”.

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	<p>Otago Regional Council must prepare or amend and maintain its <i>regional plans</i> to:</p> <ol style="list-style-type: none"> 1. manage the adverse <i>effects</i> of <i>infrastructure</i> activities, <u>including, where appropriate, identifying activities that qualify as minor upgrades</u>, that: <ol style="list-style-type: none"> a. are in the <i>beds</i> of <i>lakes</i> and <i>rivers</i>, or b. are in the coastal marine area, or c. involve the taking, use, damming or diversion of water or, involve the discharge of water or contaminants, and 2. require the prioritisation of sites for <i>infrastructure</i> where adverse <i>effects</i> on highly valued <i>natural and physical resources</i> and <i>mana whenua</i> values can be avoided or, at the very least, minimised. 	
24	<p>EIT-TRAN-07 – Effective, efficient, and safe transport</p> <p>Otago has an integrated air, land and sea <u>water-based</u> transport network that:</p> <ol style="list-style-type: none"> 1. is effective, efficient and safe, 2. connects communities and their activities within Otago, with other regions, and internationally, and 3. is resilient to natural hazards <u>and the effects of climate change, and the changing needs of communities</u>. 	No further amendments recommended.
25	<p>HAZ-NH-P4 – Existing activities</p> <p><u>In areas identified under HAZ-NH-P1 as subject to natural hazards, R</u>educe existing natural hazard risk <u>to a tolerable or acceptable level</u> by:</p> <ol style="list-style-type: none"> 1. Encouraging activities that reduce risk (<u>in relation to natural hazards</u>), or reduce community vulnerability, 2. Restricting activities that increase risk, or increase community vulnerability, 3. Managing existing land use <u>activities</u> within areas of significant risk (<u>in relation to natural hazards</u>) to people, and communities <u>and property</u>, 4. Encouraging design that facilities: <ol style="list-style-type: none"> a. Recovery from natural hazard events, or b. Relocation to areas of acceptable risk (<u>in relation to natural hazards</u>), or c. Reduction of risk (<u>in relation to natural hazards</u>). 5. Relocating lifeline utilities, and facilities for essential and emergency services, away from areas of significant risk (<u>in relation to natural hazards</u>), where appropriate and practicable, and 6. Enabling development, upgrade, maintenance and operation of lifeline utilities and facilities for essential and emergency services. 	No further amendments recommended.
26	<p>HAZ-NH-P9 – Protection of hazard mitigation measures, <u>lifeline utilities, and essential or emergency services</u>.</p> <p>Protect the functional <u>needs and operational needs</u> of hazard mitigation measures, lifeline utilities, and essential or emergency services, including by:</p>	No further amendments recommended.

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	<ol style="list-style-type: none"> 1. Avoiding significant adverse effects on those measures, utilities of services, 2. Avoiding, and only where avoidance is not practicable, remedying or mitigating other adverse effects on those measures, utilities or services, 3. Maintaining access to those measures, utilities or services for maintenance and operational purposes, and 4. Restricting the establishment of other activities that may result in reverse sensitivity effects on those measures, utilities or services. 	
27	<p>HAZ-CL-P15 – New Contaminated land</p> <p>Amend as follows:</p> <p>Avoid the creation of new contaminated land or, where this is not practicable, minimise to the smallest extent practicable adverse effects on the environment and mana whenua values.</p>	<p>Amend HAZ-CL0P15 as follows:</p> <p>Avoid the creation of new contaminated land or, where this is not demonstrably practicable, avoid, remedy or mitigate minimise to the smallest extent practicable adverse effects on the environment and mana whenua values.</p>
28	<p>HCV-HH-P5 – Managing historic heritage</p> <p>Protect historic heritage by:</p> <ol style="list-style-type: none"> 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. 4. Avoiding, as the first priority, other adverse effects on areas or places with historic heritage values or qualities, and where it is demonstrated that adverse effects cannot be completely avoided, they are remedied or mitigated, and. 5. Where adverse effects demonstrably cannot be completely avoided, remedied or mitigated, and 6. Recognising that for infrastructure, EIT-INF-P13 applies instead of HCV-HH-P5(1) to (5). 	<p>Amendment to policy HCV-HH-P5 as follows:</p> <p><i>Protect historic heritage by:</i></p> <ol style="list-style-type: none"> 1. Requiring the use of accidental discovery protocols in accordance with APP11. 2. Avoiding adverse effects on the values of 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 the values of 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, and where it is demonstrated that adverse effects cannot be practicably-completely avoided, they are remedied or mitigated, and. 5. Where adverse effects demonstrably cannot be completely avoided, remedied or mitigated, and 6. Recognising that for infrastructure, EIT-INF-P13 applies instead of HCV-HH-P5(1) to (5). <p>And amend HCV-HH-P7 as follows:</p> <p><i>Maintain historic heritage values through the integration of historic heritage values into new activities and the adaptive reuse or upgrade of historic heritage places and areas and recognise that such reuse or upgrade may necessitate adverse effects on the broader heritage place or area.</i></p>
29	<p>Amend as follows:</p> <p>NFL-P2 – Protection of outstanding natural features and landscapes</p> <p><i>Protect outstanding natural features and landscapes outside the coastal environment from inappropriate subdivision, use and development by:</i></p> <ol style="list-style-type: none"> 1. <i>avoiding adverse effects on the values of the natural features and landscapes where there is limited or no capacity to absorb change-use or development that contribute to the natural feature or landscape being considered outstanding, even if those values are not themselves outstanding, and</i> 2. <i>Avoiding, remedy or mitigating other adverse effects.</i> 3. managing the adverse effects of infrastructure on the values of outstanding natural features and landscapes in accordance with EIT-INF-P13. 	<p>Seek an amendment to subclause (3) as follows:</p> <p><i>Protect outstanding natural features and landscapes outside the coastal environment from inappropriate subdivision, use and development by:</i></p> <ol style="list-style-type: none"> 1. <i>avoiding adverse effects on the values of the natural features and landscapes where there is limited or no capacity to absorb change-use or development that contribute to the natural feature or landscape being considered outstanding, even if those values are not themselves outstanding, and.</i> 2. <i>Avoiding, remedy or mitigating other adverse effects.</i> 3. managing the adverse effects of infrastructure on the values of outstanding natural features and landscapes in accordance with EIT-INF-P13. Recognising that for infrastructure, EIT-INF-P13 applies instead of NFL-P2(1) and (2).

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30	<p>UFD-O2 – Development of urban areas</p> <p>The development and change of Otago's urban areas:</p> <p>...</p> <p><u>(9A) facilitates the safe and efficient ongoing use, maintenance, upgrade and development of nationally significant infrastructure and regionally significant infrastructure,</u></p> <p>...</p> <p><u>(11) is guided by the input and involvement of mana whenua, and provides for development opportunities which support the aspirations and values of mana whenua.</u></p>	No further amendments required.
32	<p>UFD-P1 – Strategic planning</p> <p>Strategic planning processes, undertaken at an appropriate scale and detail, precede urban growth and development and:</p> <p>...</p> <p><u>(8A) identifies areas of potential conflict between incompatible activities and sets out the methods by which these are to be resolved.</u></p>	No further amendments required.
33	<p>UFD-P3 – Urban intensification</p> <p>Within Provide for intensification in urban areas intensification is enabled where, as a minimum, it:</p> <ol style="list-style-type: none"> 1. contributes to establishing or maintaining the qualities of a well-functioning urban environment. 2. is well-served by existing or planned development infrastructure and additional infrastructure. <p><u>(2A) does not compromise the safe and efficient ongoing use of nationally significant infrastructure or regionally significant infrastructure.</u></p> <ol style="list-style-type: none"> 3. meets the greater of demonstrated demand for housing and/or business use or the level of accessibility provided for by existing or planned active transport or public transport. 4.—addresses an identified shortfall for housing or business space, in accordance with UFD-P2. 5. addresses issues of concern to iwi and hapū, including those identified in any relevant iwi planning documents, and 6.—manages adverse effects on values or resources identified by this RPS that require specific management or protection. 	No further amendments required.
34	<p>APP2 – Significance criteria for indigenous biodiversity</p> <p>An area is considered to be a <i>significant natural area</i> if it meets any one or more of the criteria below:</p> <p>Representativeness</p> <ol style="list-style-type: none"> (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 	Amend APP2 – Significance Criteria to ensure the significance criteria for indigenous biodiversity are aligned with best practice and are specific and targeted enough to avoid the classification of inappropriate areas as SNAs.

district or coastal marinebiogeographic region. This may include ~~degraded~~ degraded examples of their type or represent all that remains of indigenous vegetation and habitats of indigenous fauna in some areas.

(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.

(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.

Rarity

- (d) An area that supports:
- (i) An indigenous species that is threatened, or uncommon, or an important population of species that is at risk risk, or uncommon, nationally or within an ecological district or coastal marine biogeographic region, or
 - (ii) 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
 - (iii) Indigenous vegetation and habitats within originally rare ecosystems, or
 - (iv) The site contains indigenous vegetation or an indigenous species that is endemic to Otago or that are at distributional limits within Otago.

Diversity

(e) 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.

Distinctiveness

- (f) An area that supports or provides habitat for:
- (i) Indigenous species at their distributional limit within Otago or nationally, or
 - (ii) Indigenous species that are endemic to the Otago region, or
 - (iii) Indigenous vegetation or an association of indigenous species that is distinctive, of restricted occurrence, or has developed as a

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- result of an unusual environmental factor or combinations of factors.
- Ecological context**
- (g) The relationship of the area with its surroundings (both within Otago and between Otago and the adjoining regions), including:
 - (i) An area that has important connectivity value allowing dispersal of indigenous flora and fauna between different areas, or
 - (ii) An area that has an important buffering function that helps to protect the values of an adjacent area or feature, or
 - (iii) 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
 - (iv) A *wetland* which plays an important hydrological, biological or ecological role in the natural functioning of a *river* or coastal ecosystem.
- Vulnerable and sensitive species**
- (h) An area that contains sensitive habitats or species that are fragile to anthropogenic effects or have slow recovery from anthropogenic effects.

35	<p>APP3 – Criteria for biodiversity offsetting</p> <p>(1) Biodiversity offsetting is not available for an if the activity that will result in:</p> <ul style="list-style-type: none"> (a) the loss <u>from an ecological district</u> of any individuals of Threatened <i>taxa</i>, other than kānuka (<i>Kunzea robusta</i> and <i>Kunzea serotina</i>), under the New Zealand Threat Classification System (Townsend et al, 2008); or (b) <u>reasonably</u> measurable loss within an ecological district to an At Risk-Declining <i>taxon</i>, other than manuka (<i>Leptospermum scoparium</i>), under the New Zealand Threat Classification System (Townsend et al, 2008); or (c) <u>the worsening of the conservation status of any indigenous biodiversity as listed under the New Zealand Threat Classification System (Townsend et al, 2008); or</u> (d) <u>the removal or loss of viability of a naturally uncommon ecosystem type that is associated with indigenous vegetation or habitat of indigenous fauna; or</u> (e) <u>the loss (including cumulative loss) of irreplaceable or vulnerable indigenous biodiversity.</u> <p>(2) Biodiversity offsetting <u>may be</u> is available if the following criteria are met:</p> <ul style="list-style-type: none"> (a) the offset addresses residual adverse <i>effects</i> that remain after implementing the sequential steps required by ECO-P6(1) to (3), (b) the proposal <u>demonstrates that the offset can reasonably achieves</u> no net loss and preferably a net gain in indigenous <i>biodiversity</i>, as measured by type, amount and 	Delete clause 1 that sets unreasonable limits on when biodiversity offsetting is available as a management response.
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Row ID	Proposed Provisions, as described in the Section 42A (black tracking) / Supplementary Evidence (red tracking) (shown insofar is relevant to QAC's submission)	K O'Sullivan recommended amendments (tracking shown in blue)
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- condition at both the impact and offset sites using an explicit loss and gain calculation,
- (c) the offset is undertaken where it will result in the best ecological outcome, and is preferably as the first priority be:
 - (i) close to the location of the activity, and
 - (ii) within the same ecological district ~~or coastal marine biogeographic region,~~
 - (d) the offset is applied so that the ecological values being achieved are the same or similar to those being lost,
 - (e) the positive ecological outcomes of the offset endure at least as long as the impact of the activity and preferably in perpetuity,
 - (f) the proposal demonstrates that the offset achieves *biodiversity* outcomes ~~beyond results that are demonstrably additional to those~~ that would have occurred if the offset was not proposed, and are additional to any remediation or mitigation undertaken in relation to the adverse effects of the activity,
 - (g) the time delay between the loss of *biodiversity* and the gain or maturation of the *biodiversity* outcomes of the realisation of the ⁽⁹⁾offset is the least necessary to achieve the best possible outcome,
 - (h) the outcome of the offset is achieved within the duration of the *resource consent*, and
 - (i) any offset developed in advance of an application for *resource consent* must be shown to have been created or commenced in anticipation of the specific *effect* of the proposed activity and would not have occurred if that *effect* was not anticipated, and
- (3) Biodiversity offsetting proposed in any application for *resource consent*, plan change or notice of requirement, must address all matters in APP3(2), and:
- (a) use objective counts and measures wherever possible,
 - (b) include *high value species or vegetation types* as components,
 - (c) disaggregate components of *high value species and vegetation types*, so that no trade-offs between them can occur,
 - (d) evaluate the ecological context, including the interactions between species, habitats and ecosystems, spatial connections and ecosystem function at the impact site and offset site, and
 - (e) include consideration of mātauraka Māori, and
 - (f) include a separate biodiversity offset management plan prepared in accordance with good practice and which incorporates a monitoring and evaluation regime.

36	<p>APP4 – Criteria for <i>biodiversity</i> compensation</p> <p>(1) Biodiversity compensation is not available if the <u>for an activity that</u> will result in:</p> <ul style="list-style-type: none"> (a) the loss from an ecological district of an indigenous <i>taxon</i> (excluding <i>freshwater</i> fauna and flora) or of any ecosystem type from an ecological district or coastal marine biogeographic region, 	Delete clause 1 that sets unreasonable limits on when biodiversity offsetting is available as a management response.
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- (b) removal or loss of viability of the habitat of a Threatened ~~or At-Risk~~ indigenous species of fauna or flora under the New Zealand Threat Classification System (Townsend et al, 2008),
- (c) removal or loss of ~~viability~~ health and resilience of a ~~naturally-rare or naturally~~ uncommon ecosystem type that is associated with *indigenous vegetation* or habitat of indigenous fauna, ~~or~~
- (d) worsening of the conservation status of any Threatened or At Risk indigenous biodiversity listed under the New Zealand Threat Classification System (Townsend et al, 2008), ~~conservation status of any Threatened or At Risk indigenous fauna, or (e) the loss (including through cumulative loss) of irreplaceable or vulnerable indigenous biodiversity, and:~~
- (2) Biodiversity compensation may be available if the following criteria are met:
- (a) compensation addresses only residual adverse effects that remain after implementing the sequential steps required by ECO-P65(1) to (4),
- (b) compensation is undertaken where it will result in the best ecological outcome and preferably:
- (i) close to the location of the activity, and
- (ii) within the same ecological district ~~or coastal marine biogeographic region, and~~
- (iii) delivers indigenous biodiversity gains on the ground.
- (ba) where criterion (2)(b)(iii) is not met any financial contributions considered must be directly linked to a specific indigenous biodiversity gain or benefit.
- (c) compensation achieves positive *biodiversity* outcomes that would not have occurred without that compensation, and are additional to any remediation, mitigation or offset undertaken in response to the adverse effects of the activity,
- (d) the positive *biodiversity* outcomes of the compensation are enduring and are commensurate with the biodiversity values lost,
- (e) the time delay between the loss of *biodiversity* ~~through the proposal at the impact site~~ and the gain or maturation of the ~~compensation's~~ *biodiversity* outcomes from the compensation, is the least necessary to achieve the best possible ecological outcome,
- (f) the outcome of the compensation is achieved within the duration of the *resource consent*,
- (fa) when trading up forms part of biodiversity compensation, the proposal must demonstrate the indigenous biodiversity values gained are demonstrably of higher indigenous biodiversity value than those lost, or considered vulnerable or irreplaceable,
- (g) biodiversity compensation developed in advance of an application for *resource consent* must be shown to have been created or commenced in anticipation of the specific *effect* of the proposed activity and would not have occurred if that *effect* was not anticipated, and
- (h) the *biodiversity* compensation is demonstrably achievable.
- (3) Biodiversity compensation proposed in any application for resource consent, plan change or notice of requirement, must address all matters in APP4(2), and:

Row ID	Proposed Provisions, as described in the Section 42A (black tracking) / Supplementary Evidence (red tracking) (shown insofar is relevant to QAC's submission)	K O'Sullivan recommended amendments (tracking shown in blue)
	<p>(a) <u>evaluate the ecological context, including the interactions between species, habitats and ecosystems, spatial connections and ecosystem function at the impact site and compensation site.</u></p> <p>(b) <u>include consideration of mātauraka Māori, and</u></p> <p>(c) <u>include a separate <i>biodiversity</i> compensation management plan prepared in accordance with good practice and which incorporates a monitoring and evaluation regime.</u></p>	