

BEFORE THE OTAGO REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Otago Regional Policy Statement 2021 –
Chapter 11 EIT – Energy, Infrastructure and Transport

**STATEMENT OF EVIDENCE OF CRAIG ALAN BARR ON BEHALF OF
QUEENSTOWN LAKES DISTRICT COUNCIL (138)**

23 NOVEMBER 2022

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1. INTRODUCTION

- 1.1 My name is Craig Alan Barr. I am a planning consultant contracted by the Queenstown Lakes District Council (**QLDC or Council**) to prepare planning evidence on the Energy and Infrastructure sections (excluding Transport) of Chapter 11 – Energy, infrastructure and transport of the Otago Regional Council's Proposed Regional Policy Statement (**pORPS**).
- 1.2 I hold the qualifications of Master of Planning and Bachelor of Science from the University of Otago. I have been employed in planning and development roles since 2006, for both local authorities as well as in private practice. I was employed by QLDC from 2012 to 2021. I am very familiar with the wider Queenstown Lakes District, having undertaken both plan administration and policy work across the District over the last nine years. For most of 2016, I held the position of Acting Manager Planning Policy.
- 1.3 I was closely involved in the latter stages of the preparation of the Partially Operative Otago Regional Policy Statement 2019 (**PORPS19**) throughout 2017-2020, having represented the QLDC in Environment Court mediation and in an Environment Court hearing in relation to the following mining topic related provisions:¹
- (a) Policy 5.4.6 which relates to biological diversity offsetting;
 - (b) Policy 5.4.6A which relates to limits to biological diversity compensation; and
 - (c) Policy 5.4.8(d) which relates to managing the adverse effects of mining on 'highly valued natural features, landscapes and seascapes'.
- 1.4 I have been closely involved in the Queenstown Lakes Proposed District Plan (**PDP**) process for QLDC. During 2016 through to 2018 I was the lead planner and reporting officer for QLDC in relation to the Landscape Chapter 6 and rural zones, and several district wide chapters at the Stage 1 and Stage 2 Council level hearings. I was the Council's reporting officer for the Wakatipu Basin variation and also appeared in the Environment Court, on behalf of the Council on Topic 2 (Rural Landscapes), and Topics 25 and 30 (which relate to the PDP text on the Wakatipu Basin Rural Amenity Zone).

¹ Oceana Gold (New Zealand) Limited and Ors. v Otago Regional Council [2019] NZEnvC 41.

- 1.5 I was not involved in preparing the QLDC submission on the pORPS.
- 1.6 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court's Practice Note 2014 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise.

2. PURPOSE AND STRUCTURE OF EVIDENCE

- 2.1 The purpose of my evidence is in relation to QLDC's submission on the Energy and Infrastructure provisions of the pORPS. In particular, my evidence focuses on the following matters:
- (a) Municipal Landfill as Regionally Significant Infrastructure.
 - (b) Policy EIT-INF-P13 and managing highly valued natural features and landscapes.
 - (c) Ensuring a consistent and balanced approach to all the policies in the context that this pORPS will be further elaborated upon by the district plans of the five local authorities.
- 2.2 I note for completeness that the QLDC submitted in support of a relatively large number of provisions and sought that they be retained, either as notified or with relatively minor amendments. As a result of submissions from other persons, in particular other infrastructure and energy providers, changes have since been recommended to a number of these provisions in Mr Peter Stafford's s 42A report and the supplementary evidence of Mr Marcus Langman. I have considered these changes in the context of whether the recommended amendments change the fundamental intent of the provision, conflict with the reasons for support outlined in the QLDC's submission or change the provision such that it is no longer appropriate.
- 2.3 While this evidence is not rebuttal evidence, I consider that it is most efficient, and of most assistance to the Hearings Panel that I focus on the above in terms of the most recent 's 42A version' of pORPS dated 31 October 2022 as recommended to be modified by the respective Otago Regional Council reporting officers. In particular, in the context of Mr Langman's supplementary evidence focusing on Policy EIT-INF-P13 and the extent that policy (or other

additional policies) provides a carve out framework for nationally and regionally significant infrastructure.

2.4 The exception to this is where a QLDC submission on a particular matter that does not appear to be of interest to other participants has been recommended to be rejected in the s 42A report.

2.5 In preparing this evidence I have read and considered the following documents:

- (a) The various versions of the pORPS.
- (b) The PORPS19.
- (c) The Chapter 11: Energy, infrastructure and transport s 42A report 4 May 2022 (updated 18 May 2022) prepared by Peter Stafford (**s 42A report**).
- (d) The supplementary evidence of Marcus Hayden Langman 11 October 2022 (**supplementary evidence**).
- (e) The National Policy Statement for Electricity Transmission 2008 (**NPSET**).
- (f) The National Policy Statement for Renewable Electricity Generation 2011 (**NPSREG**).
- (g) The National Policy Statement Urban Development 2020 (**NPSUD**).
- (h) The National Policy Statement Highly Productive Land 2022 (**NPSHL**).
- (i) Submissions and further submissions from those persons who have had an influence and/or garnered attention in the s 42A report and/or supplementary evidence.

2.6 Because of the various iterations of provisions in the s 42A version of the pORPS, where I have suggested amendments to provisions, I have shown the provision, based on the s 42A version in clean type and then shown my recommended changes as underline and strikethrough.

3. Municipal Landfill as Regionally Significant Infrastructure (RSI)

Definition of RSI

3.1 QLDC's submission sought that municipal landfills and associated solid waste sorting and transfer facilities be included in the definition of RSI.

3.2 The Council's submission identified that the municipal landfills are worthy of recognition as RSI because:

Management of the solid waste stream is a critical municipal infrastructure function required to service local communities, and it should be afforded recognition to the same level as other municipal infrastructure functions such as waste water collection, treatment and disposal.

- 3.3 The s 42A report² opposes the introduction of municipal landfills as sought by QLDC, and also opposes the introduction of 'landfills' as sought by the Dunedin City Council.
- 3.4 For context, the existing Victoria Flats Landfill is the only solid waste landfill within the Queenstown Lakes District and Central Otago District and is designated in the PDP (Designation #76)³. The Victoria Flats Landfill, is located at the eastern end of the Gibbston Valley, and is zoned Rural Zone in the PDP and located within an Outstanding Natural Landscape, and within a landscape priority area (Victoria Flats Priority Area) currently subject to a variation to the PDP to have schedules of the attributes and landscape capacity of identified priority areas added to the PDP.
- 3.5 Victoria Flats Landfill was consented and began operating in 1999, with the operation provided to a third-party provider by way of contract, or until the date the Landfill's regional consents expire. The Landfill provides solid waste services for communities of the Queenstown Lakes district and the Central Otago district.
- 3.6 There is no general public access to the Landfill. Waste is generally delivered to the Victoria Flats Landfill in "transfer loads", from stations located at Frankton, Wanaka, Alexandra, Cromwell and Ranfurly. Commercial operators also have arrangements to dispose of waste at the Landfill, for example skip bin service providers or civil contractors and other activities carting demolition and construction waste to site.
- 3.7 The s 42A report does not give any specific reasons why the inclusion of municipal landfill is not supported. However, for 'landfills' sought by the Dunedin City Council the s 42A report refers to an introductory paragraph to the definition of RSI concerning what is considered appropriate to constitute RSI. I understand that Mr Stafford was referring to paragraph 2 of the S 42A report which states:

² Section 42A Report at [534].

³ The QLDC are the requiring authority responsible for the designation.

The approach taken in the chapter is to provide for a slightly more flexible approach for nationally and regionally significant infrastructure in a manner that recognises the need to balance the importance of that infrastructure to the region, while at the same time meeting the statutory requirements under the RMA and associated higher order documents.

- 3.8 Having also considered the other submitters who seek that their activity is included as RSI, and the amendments to the policy framework for RSI (which I discuss below), I understand why Mr Stafford is reluctant to add additional activities as RSI. If many activities could claim to be RSI⁴ it would render the policy framework of the wider pORPS and the Council's justification for RSI meaningless. It is my understanding that the genesis of the RSI bespoke policy framework is to identify that certain activities with a benefit to the community, such as the provision of electricity (in general terms), existing airports which are also lifeline utilities, or key roading infrastructure (i.e. State Highways) are more likely than not to have location constraints and cannot avoid locating within some environments due to those activities having a functional need to locate within a potentially sensitive environment.
- 3.9 I consider that the Victoria Flats Landfill qualifies as RSI because it forms an important benefit to the Queenstown Lakes District and Central Otago District communities through the disposal of solid waste, including contaminated land, and because the existing landfill has a functional and operational need to locate within an area that also has environmental sensitivities, being within an Outstanding Natural Landscape.
- 3.10 Like other RSI, the Victoria Flats Landfill's location is understood to have been selected in part, to be in a relatively remote location to avoid compatibility effects on sensitive receivers such as residential activity, including the potential for new sensitive activities to establish and give rise to reverse sensitivity effects. Given the significance of the landfill to the QLDC and Central Otago District Council, the management of Victoria Flats Landfill from reverse sensitivity effects is also an important resource management issue which is managed by Policy EIT-INF-P15.

⁴ Such as Fonterra seeking an amendment to the definition of RSI to include 'infrastructure necessary to enable the operation of regionally significant industry'

3.11 Having considered the s 42A report and in light of the above, I also consider there to be a risk that any person who proposes to operate a landfill or (perhaps more likely) a waste sorting or transfer facility could leverage off a broad definition of municipal landfill or landfill, and could inadvertently elevate solid waste screening facilities (such as recycling facilities) who are not a local authority nor contracted by a local authority/municipal agency. While the concept of a 'municipal' activity is generally understood to refer to council's or a Government agency/provider, the phrase is not defined in the pORPS or the National Planning Standards.

3.12 I consider that there is a reasonable likelihood of the ongoing use and potential upgrade works or expansion of the Victoria Flats Landfill would constitute as qualifying as RSI, however a building recycler located within the urban environment or on the fringes is not as clearly RSI, in my view.

3.13 For these reasons I consider that it is appropriate to include landfills as RSI which are of the nature, scale and importance to the community that is the Victoria Flats Landfill to the definition of RSI, but to avoid the potential for activities that are not likely to have the same importance and functional need. I recommend the following is added to the definition of RSI:

(13) Landfills and associated solid waste sorting and transfer facilities which are designated by, or are owned or operated by a local authority.

4. ENERGY

EIT-EN-P5

4.1 Policy EIT-INF-P5 is:

EIT-EN-P5 – Non-renewable energy generation

Avoid the development of non-renewable energy generation activities in Otago and facilitate the replacement of non-renewable energy sources, including the use of fossil fuels, in energy generation.

4.2 QLDC's submission sought the policy be amended so that the policy uses more specific language regarding the use of fossil fuels, such as avoiding burning fossil fuels for energy generation.

- 4.3 The s 42A report did not support QLDC's submission, and also opposed several other submissions seeking greater leniency toward the use of non-renewable energy, including in some cases where the activity was of a very small scale. I agree with the s 42A report and consider the policy to be clear enough, and nor do I consider any other submission's drafting suggestion to be more appropriate than the notified version.

EIT-EN-P6, EIT-EN-P7, EIT-EN-P8 and EIT-EN-P9

- 4.4 The QLDC submission supported these policies as notified and sought their retention.
- 4.5 Policy EIT-INF-P6 has been retained with the addition of 'particular' into limb 2 which I do not oppose. While the s 42A does not recommend any amendments to EIT-INF-P8 (Small and community scale distributed electricity generation), this is consistent with the QLDC's submission.

EIT-EN-P7

- 4.6 Policy EIT-INF-P7 manages reverse sensitivity effects on renewable electricity generation. The s 42A report has recommended modifications in support from Federated Farmers and Meridian so that a reference is added to consented or existing renewable electricity generation facilities.
- 4.7 Having read the analysis in the s 42A report, the amendments stem from seeking better consistency with NPSREG Policy D:

I agree with the Federated Farmers requesting amendment to add "consenting and on existing" before "renewable electricity generation. I consider this addition better reflect Policy D of the NPSREG. I recommend accepting this submission.

- 4.8 On the basis that the phrase 'consenting' is presumed to be a typo, the policy in the s 42A version currently reads:

EIT-EN-P7 – Reverse sensitivity

Activities that may result in reverse sensitivity effects on consented or existing renewable electricity generation activities or compromise the operation or

maintenance of renewable electricity generation activities are, as the first priority, prevented from establishing and only if that is not reasonably practicable, managed so that reverse sensitivity effects are minimised.

4.9 For reference, Policy D of the NPSREG is:

D. Managing reverse sensitivity effects on renewable electricity generation activities

POLICY D

Decision-makers shall, to the extent reasonably possible, manage activities to avoid reverse sensitivity effects on consented and on existing renewable electricity generation activities.

4.10 While the submitters and the s 42A report are correct that Policy D of the NPSREG includes a reference to 'consented' and 'on existing', the concept of an activity that holds a resource consent forming part of the environment is well established and adding a phrase that a policy has regard to a consented activity is no different than how the balance of policies in a regional policy statement or any district plan will be considered when it is applied to a live situation. In my view the recommended amendments create an inconsistent drafting approach.

4.11 I consider that Policy EIT-INF-P7 is more appropriate in its notified form, being the following (my strikethrough removing the s 42A text):

EIT-EN-P7 – Reverse sensitivity

Activities that may result in reverse sensitivity effects ~~on consented or existing renewable electricity generation activities~~ or compromise the operation or maintenance of renewable electricity generation activities are, as the first priority, prevented from establishing and only if that is not reasonably practicable, managed so that reverse sensitivity effects are minimised.

EIT-EN-P9

4.12 The s 42A report recommends substantial changes to EIT-INF-P9 – Energy conservation and efficiency, largely to align the policy with a policy in the Dunedin City District Plan and sought by the Dunedin City Council.

- 4.13 I consider that caution should be applied when amending any policy in the pORPS to accord with one district plan, when there are five local authorities and accordingly five District Plans which are required to give effect to a regional policy statement. District and City Council's have the discretion to apply specific policies to their areas that suit their specific resource management issues including as sought to be articulated by that community. The Dunedin City Council version is responding to EIT-EN-P9 in a way that is too specific to a resource management issue in their area jurisdiction and that this may not be the most appropriate response across the region.
- 4.14 I consider the notified policy was appropriate in a regional policy statement setting, and while the changes have made some drafting improvements, I do not agree that recommended limb (1) is appropriate at all, which refers to requiring the development of new housing that is durably constructed and energy efficient.
- 4.15 I consider that documents required to be prepared under the Building Act 2004 such as the Building Code and related compliance documents, and standards such as *NZS 3604:2011 Timber Framed Buildings* are more appropriate documents to ensure that a building is 'durably constructed' than a District Plan, as directed by the pORPS.
- 4.16 For these reasons, I recommend the s 42A report version of EIT-INF-9 is modified as follows:

EIT-EN-P9 – Energy conservation and efficiency

Development supports energy conservation and efficiency by designing subdivision to maximise solar access, and locating subdivision development to minimise, as far as practicable, transportation costs, car dependency and greenhouse gas emissions.:

~~(1) requiring the development of new housing that is durably constructed and energy efficient,~~

~~(2) designing subdivisions to maximise solar access, and~~

~~(3) locating development to minimise, as far as practicable, transportation costs, car dependency and greenhouse gas emissions.~~

EIT-EN-M2(7)

- 4.17 Method EIT-EN-M2 (7) relates to a direction that district plans require the design of transport infrastructure to provide for multi-modal transport options in urban and rural residential areas.
- 4.18 QLDC's submission sought that EIT-EN-M2 (7) be amended so that it sits within either the infrastructure or transport sub-sections and amended so that it is not a requirement in all instances, and rather so that it is required when there is an opportunity to connect with an existing transport infrastructure network.
- 4.19 The s 42A report rejected the QLDC submission, and meanwhile the supplementary evidence of Mr Langman has recommended the reference to rural residential is amended to rural lifestyle areas.
- 4.20 The recommended amendment departs further from the issues raised in the QLDC submission to do with low density rural living subdivision development requiring multi modal transport, because at least in terms of the PDP, a rural residential zone subdivision has a density of one lot/dwelling per 4000² is now applicable to a rural lifestyle zone subdivision which has a density more in the order of 1ha – 2ha⁵.
- 4.21 The QLDC's submission stated:

This method requires district plans to be amended to require design of infrastructure to provide for multi-modes for rural residential areas. In general, bike lanes and pedestrian footpaths are not currently a requirement in rural residential areas, nor are these areas generally serviced by public transport, and we have been given no certainty of the future provision of public transport to these areas from our public transport provider.

If we require footpaths and cycle lanes in new areas of rural residential development they may be disconnected from other established urban bike or pedestrian networks – ie an island of cycle lanes and footpaths.

⁵ For instance, under the PDP, the Wakatipu Basin Rural Amenity Zone Lifestyle Precinct anticipates a density of 1ha, while the Rural Lifestyle Zone is a 2ha average.

Our rural residential areas are not all located in close proximity to urban areas, whereas that may be the case in other Otago districts.

4.22 I consider the QLDC submission missed the point somewhat, at least in terms of the reference to rural residential zones as notified. In my experience, through the district plan review process, areas once / historically zoned Rural Residential tend to be rezoned to urban densities, and areas zoned with a less intensive rural lifestyle zoning can sometimes be rezoned to a rural residential zoning. An example of this is in the Queenstown District is the legacy of Rural Residential zoned areas under the former operative District Plan 2007 located within what was at the time the periphery of Wanaka and is now subsumed within the wider Wanaka urban environment. The opportunity to secure multi modal transport is at the time of the 'first' subdivision and I consider the method to encourage this occurring.

4.23 Therefore, while the amendment by the supplementary evidence appears to exacerbate the issue identified by the Council, I consider the amendment to be appropriate.

5. INFRASTRUCTURE

EIT-INF-04

5.1 QLDC's submission sought that EIT-INF-04 be retained as notified.

5.2 The s 42A report recommended adding nationally significant infrastructure and RSI to the policy, and the supplementary evidence of Mr Langman seeks that the objective is transferred (along with the electricity transmission and electricity distribution provisions) to the Energy section of Chapter 11.

5.3 I support these amendments.

EIT-INF-05

5.4 QLDC's submission sought that EIT-INF-05 be retained as notified.

5.5 Similar to EIT-INF-O4 amendments are made to fully express nationally significant infrastructure and RSI, while a recommendation is made to 'avoid' or minimise adverse effects on the environment.

5.6 I support these amendments.

EIT-INF-P10

5.7 The QLDC submission sought that EIT-INF-P10 – recognising resource requirements, be amended so it states/better describes the 'needs' that must be taken into account, and to consider replacing the word 'needs' with a more specific alternative, such as 'functional needs' and/or 'operational needs', and suggested that the policy could be combined with EIT-INF-P16.

5.8 The QLDC submission also suggested that the policy could be combined with policy EIT- INF-P15.

5.9 The s 42A report has agreed with the QLDC's (and others) submissions and has recommended adding a reference to functional needs and operational needs, but does not accept that the policy could be combined with EIT-INF-P15.

5.10 With regard to merging EIT-INF-P10 with EIT-INF-P15, I agree with the s 42A report. The concepts of recognising resource constraints (EIT-INF-P10) and the matter of protecting infrastructure from incompatible activities (EIT-INF-P15) should be distinct.

5.11 I support the amendments to EIT-INF-P10 and its recommended drafting.

EIT-INF-P11

5.12 QLDC sought in its submission that EIT-INF-P11 – operation and maintenance, is amended by replacing the words 'allow for' with 'provide for'. In addition, that limbs (1) and (2) are redrafted so they are linked with an 'or', as they provide alternatives.

5.13 The s 42A report does not support the changes sought by QLDC. I consider that 'provide for' is more appropriate, because 'allowing' an activity is often associated with a permitted activity status, where as the qualification of limbs (1) and (2) refer to the management of significant adverse effects. It is unlikely in

my opinion that a permitted maintenance activity rule in a district plan would allow effects but on the basis that a significant adverse effect is avoided. I agree with the QLDC submission that the drafting of EIT-INF-P11 is incongruent and support it being amended as set out below.

- 5.14 I agree with the s 42A report that the two environmental qualification limbs are not intended to be as alternatives 'or' as mutually exclusive. I generally support the s 42A version of EIT-INF-P11. For these reasons I recommend EIT-INF-P11 is amended as follows:

EIT-INF-P11 – Operation and maintenance

Except as provided for by ECO – P4, ~~allow~~ provide for the operation and maintenance of existing nationally significant infrastructure and regionally significant infrastructure while:

- (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.*

EIT-INF-P12

- 5.15 EIT-INF-P12 is sought to be amended by the QLDC so the policy applies to upgrades and development of other infrastructure, and to consider combining the policy EIT-INF-P14. As notified the policy preamble applies to only nationally or regionally significant infrastructure. The s 42A report considered that the application of the policy to only nationally and regionally significant infrastructure to be appropriate. The policy has been amended through the supplementary evidence so that it refers to all infrastructure. I support this amendment.
- 5.16 The amendment will assist with the ability to achieve Objective which EIT-INF-O4 applies to infrastructure generally and not just nationally or regionally significant infrastructure.
- 5.17 I support the s 42A version of EIT-INF-P12 and do not recommend any further amendments.

EIT-INF-P13

- 5.18 Policy EIT-INF-P13 manages the location and effects of infrastructure, nationally significant infrastructure and RSI. As noted by many submitters, it is a bespoke infrastructure related effects management policy that while similar to PORPS19 Policy 4.3.4 is different in terms of the 'bottom line' tests and that EIT-INF-P13 differs in that it applies to all infrastructure.
- 5.19 The QLDC submission sought that limb (1)(h) is amended to provide guidance as to how 'high' recreational and amenity values are to be measured or defined. Additionally, the QLDC submission sought to amend part (2)(b) to use a different method to manage adverse effects on values, rather than avoidance as drafted in the notified policy.
- 5.20 I discuss the submission in two parts, firstly limb (1)(h) and then limb (2)(b).

EIT-INF-P13(1)(h)

- 5.21 In response to QLDC's submission seeking greater guidance as to how to 'avoid as the first priority', locating infrastructure within areas of high recreational and high amenity value, the s 42A report states this is better addressed at the District Plan level. In my view this is inadequate.
- 5.22 This is because all but one of the matters in limb (1) are clearly matters that fall into section 6 of the Act, being matters of national importance which must be recognised and provided for. The exception to this is limb (h) which I consider is an outlier because while it resembles some of the matters identified in section 7 of the Act, it does not directly relate or refer to section 7(c) 'the maintenance and enhancement of amenity values', nor section 7(f) 'maintenance and enhancement of the quality of the environment'. Furthermore, the term 'areas of high recreational and high amenity value' is not defined in the pORPS, and the phrase 'areas of high recreational and high amenity value' appears only in EIT-INF-P13(1)(h) and nowhere else in the pORPS.
- 5.23 For these reasons I consider that the pORPS is not setting the most appropriate direction for district plans to give effect to EIT-INF-P13, and that the QLDC submission has merit in that further guidance should be provided as to what

constitutes avoiding as a first priority, locating infrastructure within areas of high recreational and high amenity value.

- 5.24 I consider EIT-INF-P13 would be improved if the policy referred to highly valued natural features and landscapes (**HVNFL**), which is a defined term in the pORPS and are areas which contain attributes and values of significance under sections 7(c) and 7(f) of the Act.
- 5.25 I also note that the policy direction provided in the pORPS through NFL-P3 is that HVNFL are maintained or enhanced by avoiding significant adverse effects on the values of the natural feature or landscape and avoiding or remedying or mitigating adverse effects.
- 5.26 For the above reasons I recommend amendments to EIT-INF-P13 set out below.

EIT-INF-P13(2)(b)

- 5.27 The framework of EIT-INF-P13 is such that limb (2)(a)(iv) directs nationally significant or regionally significant infrastructure to 'minimise' adverse effects (except as provided for limbs (i) to (iii)), while limb (2)(b) requires that all (other) infrastructure 'avoid' adverse effects on the values that contribute to the area's outstanding nature or significance.
- 5.28 The framework in EIT-INF-P13 provides greater contemplation of nationally or regionally significant infrastructure giving rise to adverse effects than 'all (other) infrastructure'. Despite the pORPS definition of RSI including many types of infrastructure, there is an obligation for the other infrastructure to avoid adverse effects, which could be interpreted as any adverse effect on the values that are contributing to the areas outstanding nature or significance.
- 5.29 I acknowledge the comments made in the s 42A report that those areas/resources to be managed as referred to in (2)(b) include areas identified as matters of national importance in terms of section 6 of the Act (except for (1)(h) as discussed above), particularly significant natural areas, natural wetlands, outstanding natural features and outstanding natural landscapes, and wāhi tapu.

- 5.30 That said, in the context of landscape management, the protection of those areas as directed by section 6(b) of the Act is to protect those areas from inappropriate subdivision, use and development. There is a risk that a direction that infrastructure locating within these environments must avoid any adverse effects if there is an effect on the values that contribute to the area's outstanding nature or significance, could be misconstrued at the district plan level, or resource consent level where regard is had to the pORPS. This in my view is a departure from the direction in section 6(b) of the RMA (at least as it relates to landscapes), and I consider there to be alternative drafting available that is more appropriate but still protects the Outstanding Natural Feature or Landscape from inappropriate use and development.
- 5.31 I also note that a related policy in the pORPS, NFL-P2 (protection of outstanding natural features and landscapes) is recommended to be modified by the s 42A officer (Mr Andrew MacLennan) to move away from the concept of avoiding/managing effects on the values 'that contribute to a landscape being outstanding'.
- 5.32 For the above reasons I consider that limb (2)(b) can be amended so that it would more appropriately achieve the objectives of the pORPS (and the Act) if it were amended.
- 5.33 I recommend EIT-INF-P13 is amended as follows:

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

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

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

- (a) significant natural areas,*
- (b) outstanding natural features and landscapes,*
- (c) natural wetlands,*
- (d) outstanding water bodies,*
- (e) areas of high or outstanding natural character,*
- (f) areas or places of significant or outstanding historic heritage,*

- (g) *wāhi tupuna* and areas with protected customary rights, and
- (h) highly valued natural features and landscapes ~~areas of high recreational and high amenity value,~~ and
- (2) *If it is not demonstrably practicable to avoid locating in the areas listed in (1) above because of the functional needs or operational needs of the infrastructure, nationally significant infrastructure and regionally significant infrastructure manage adverse effects as follows:*
- (a) *for nationally significant infrastructure or regionally significant infrastructure:*
- (i) *in significant natural areas, in accordance with ECO-P4,*
 - (ii) *in natural wetlands, in accordance with the relevant provisions in the NESF,*
 - (iii) *in outstanding water bodies, in accordance with LF-FW-P12,*
 - (iiia) *in relation to wāhi tūpuna, in accordance with HCV-WT-P2*
 - (iv) *in other areas listed in EIT-INF-P13(1) above, minimise the adverse effects of the infrastructure on the values that contribute to the area's importance,*
- (b) *for all infrastructure that is not nationally significant infrastructure or regionally significant infrastructure, avoid significant adverse effects and minimise other adverse effects on the values that contribute to the area's outstanding nature or significance.*

EIT-INF- P14

- 5.34 The QLDC's submission sought that EIT-INF-P14 – decision making considerations, be amended to state whether or not it applies to nationally and regionally significant infrastructure. Also, it sought to amend the title of the policy so that it refers to upgrades and development of infrastructure.
- 5.35 The QLDC submission also suggested combining the policy with EIT-INF-P12.
- 5.36 I agree with the s 42A report where it considers the amendments are not necessary.
- 5.37 While not directly related to the QLDC submission, but relevant to other submissions made⁶, I note that the threshold in the policy for developing or

⁶ #00313.021 Queenstown Airport seeks the policy is deleted.

upgrading to require consideration of alternative sites, methods and designs are when the effects are significant or irreversible.

5.38 I consider that a threshold of 'potentially significant' is an appropriate point to consider alternatives. I also note that this scenario would not often be engaged. For these reasons I support the s 42A report to not make any amendments.

5.39 However, I do not consider the concept of considering alternatives to be deployed where the effects are 'irreversible' to be appropriate. I consider there could be a risk that many types of adverse effects that are well below a level of 'potentially significant' may be irreversible, and there may also be doubt in practice as to how 'reversibility' is measured. I consider that the term irreversible is uncertain and superfluous. If an activity may have effects that are irreversible and that is a problem, then it is also likely to qualify as a potentially significant adverse effect and already covered in the policy.

5.40 For these reasons I support deleting the reference to irreversibility as follows.

EIT-INF-P14 – Decision making considerations

When considering proposals to develop or upgrade infrastructure:

- (1) require consideration of alternative sites, methods and designs if adverse effects are potentially significant ~~or irreversible~~, and*
- (2) utilise the opportunity of substantial upgrades of infrastructure to reduce adverse effects that result from the existing infrastructure, including on sensitive activities.*

EIT-INF-P15

5.41 The QLDC submission sought that EIT-INF-P15 – Protecting nationally significant infrastructure and regionally significant infrastructure, be amended by replacing the word 'Protecting' with an alternative word, or to rename the policy so it refers to reverse sensitivity (as per EIT-EN-P7).

5.42 The policy has been recommended in the s 42A report to be completely redrafted with the s 42A report referring to the greater consistency with the NPSET for justification, and accepting the submissions of Queenstown Airport and others. While the National Grid is relevant (being both Nationally Significant Infrastructure and RSI), many other activities are encompassed in the definition,

and limb (1) in particular gives nationally significant infrastructure and RSI the ability to foreclose any activity that 'may give rise to an adverse effect.

5.43 I consider that limb (3) may conflict with other development and growth aspirational policies in the pORPS and district plans. For example, limb (3) provides nationally significant infrastructure and RSI such as an airport, a state highway or a port the ability to oppose and given the strength in the phrasing of the policy, the ability to stifle any residential expansion, growth or intensification including that promulgated by a local authority to give effect to the NPSUD, on the basis that the addition of sensitive receivers are being introduced into an environment that may at some point in the future result in 'development that forecloses an opportunity to develop'. I consider that this level of protection is disproportionate, and I also note that the majority of nationally significant infrastructure and RSI are requiring authorities and they can use the notice of requirement process to designate areas for future development aspirations, which is clearer and more balanced than using limb (3) to oppose any development that may foreclose their development opportunities.

5.44 I do not support the drafting currently supported and if the policy is not reverted back to the notified version, then I consider the following more balanced approach than what is recommended in the s 42A report is more appropriate:

Protect the efficient and effective operation of *nationally significant infrastructure* and *regionally significant infrastructure* by:

- (1) avoiding activities that ~~may~~ are likely to give rise to an significant adverse effects on the *functional needs or operational needs* of *nationally significant infrastructure* or *regionally significant infrastructure*,
- (2) avoiding activities that ~~may~~ are likely to result in significant reverse sensitivity effects on *nationally significant infrastructure* or *regionally significant infrastructure*, ~~and~~,
- ~~(3) avoiding activities and development that foreclose an opportunity to adapt, upgrade or develop nationally significant infrastructure or regionally significant infrastructure to meet future demand.~~

EIT-INF-P16

5.45 Policy EIT-INF-P16 is providing for electricity transmission and the National Grid. QLDC's submission seeks that EIT-INF-P16 be amended by replacing the word 'Maintain' with 'Provide for' or 'Enable', where it states:

Maintain a secure and sustainable electricity supply in Otago by...

- 5.46 I note that the policy is recommended to be completely redrafted, and Mr Langman in his supplementary evidence has recommended that the policy is relocated to the energy section of Chapter 11, along with a new distribution policy.
- 5.47 I generally support the recommended revised version of EIT-INF-P16, including the effects management approach by way of a cross reference to EIT-INF-P13.

EIT-INF-P17

- 5.48 The QLDC submission supported this policy as notified and I note that it has not been recommend to be deleted or amended in the s 42A reports. I support its retention in its current form.

EIT-INF-M5(1)

- 5.49 The QLDC submission seeks that EIT-INF-M5(1) – District Plans be deleted because Method (1) requires district plans to be amended and maintained to require a strategic approach to the integration of land use and nationally or regionally significant infrastructure.
- 5.50 Clause (1) states:
Territorial authorities must prepare or amend and maintain their district plans to:

(1) require a strategic approach to the integration of land use and nationally or regionally significant infrastructure,
- 5.51 The QLDC submission states that It is uncertain what value this method adds, as it appears that Methods (2) to (6) will achieve the outcomes sought by Method (1). The submission also stated that furthermore, the strategic integration of land uses and nationally or regionally significant infrastructure will be provided by the Future Development Strategy required by the NPS-UD, which would subsequently be implemented by the district plan, rather than the district plan itself setting out the strategic approach. Implementing Method (1) in district plans may result in unintended duplication, which would be inefficient and burdensome to local authorities required to undertake a schedule 1 RMA process.

- 5.52 The s 42A report does not support the submission on the basis that this would be inconsistent with the overall purpose of the pORPS.
- 5.53 I do not see any real issues with local authority's being required to formulate their district plans to give effect to limb (1), a strategic approach can be reflected by way of overarching 'strategic objectives and policies', and it may also include the mapping of certain RSI such as the National Grid or important parts of the distribution network. My understanding of the method is that while it provides a local authority to take a strategic approach, it does not appear overly onerous and nor does it favour infrastructure over the management (including protection) of other resources.
- 5.54 At this stage I do not recommend any amendments to the provision.

A handwritten signature in blue ink, appearing to read 'Craig Barr', is positioned above the typed name.

Craig Barr

23 November 2022