

**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 Energy, Infrastructure and Transport

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

**14 DECEMBER 2022**

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## 1. INTRODUCTION

- 1.1 My name is Craig Barr. I am a planning consultant engaged by the Queenstown Lakes District Council (**QLDC**) to prepare evidence in chief on the Energy and Infrastructure portions of the Energy, Infrastructure and Transport chapter of the Otago Regional Council's Proposed Regional Policy Statement (**pRPS**).
- 1.2 My qualifications and experience are set out in my statement of evidence in chief dated 23 November 2022.
- 1.3 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, except where I state that I am relying upon the evidence of another person.

## 2. PURPOSE AND STRUCTURE OF EVIDENCE

- 2.1 My rebuttal evidence is provided in response to the following evidence:
- a. Ms Megan Justice for Aurora Energy Limited, Network Waitaki Limited and Powernet Limited;
  - b. Ms Claire Hunter for Contact Energy Limited; and
  - c. Ms Ainsley Jean McLeod for Transpower New Zealand Limited.
- 2.2 My rebuttal evidence focuses on evidence from the submitters identified above in relation to energy and infrastructure, specifically their respective evidence on Policy EIT-INF-P13 (either sought to be amended or replaced with a bespoke policy framework).

### **Ms Megan Justice for Aurora Energy Limited, Network Waitaki Limited and Powernet Limited**

- 2.3 My evidence in chief focused on EIT-INF-P13 – locating and managing the effects of infrastructure, nationally significant infrastructure (**NSI**) and regionally significant infrastructure (**RSI**), and in particular managing the effects of infrastructure activities within identified rural amenity landscapes and areas that

have been identified and managed in terms of section 7(c) of the Resource Management Act 1991 (**RMA**), and as defined in the pRPS as Highly Valued Natural Features and Landscapes (**HVNFL**).

- 2.4 Ms Justice proposed bespoke policies EIT-EN-PXX and EIT-EN-PXXA set out in Appendix C to her evidence. Ms Justice identifies that her new policies will be the only effects management policy that applies to electricity distribution infrastructure, when considering resource consent applications or notices of requirement<sup>1</sup>. I consider an important element overlooked by Ms Justice is the role of the RPS and the influence its provisions have on the district and regional plans. Section 74(4) of the RMA requires that a local authority must amend a proposed district plan or district plan to give effect to a regional policy statement, if the regional policy statement contains a provision to which the (district) plan does not give effect.
- 2.5 Ms Justice supports having only one effects management related policy in the pRPS for electricity distribution. In the event that there is only one effects management related policy for electricity distribution, be it via Policy EIT-INF-P13 or the bespoke replacement policies supported by Ms Justice, I consider that caution needs to be applied so that important resource issues, that are otherwise managed within the pRPS, are not omitted.
- 2.6 In relation to this matter, Ms Justice<sup>2</sup> has not included any policy reference to the concept of managing HVNFL, despite using this as an example of an issue in her evidence where she identifies the potential difficulties in obtaining approvals for significant electricity distribution within the Wakatipu Basin<sup>3</sup>.
- 2.7 Rather, Ms Justice has purposefully elected not to include a management regime for “high recreational and high amenity values”. Ms Justice explains that this phrase and resource management concept is derived from Policy 7 of the National Policy Statement on Electricity Transmission, which requires the planning and development of transmission lines to avoid adverse effects on areas of high recreational value or amenity.

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<sup>1</sup> Evidence of Megan Justice 23 November 2022 at [13.23].

<sup>2</sup> Ibid Page 61.

<sup>3</sup> Ibid at [7.13]

- 2.8 In my evidence in chief I supported amendments to Policy EIT-INF-P13 to replace the phrase in the notified policy ‘high recreational and high amenity values’ with HVNFL<sup>4</sup>.
- 2.9 For context, in Queenstown the entire valley floor rural environment of the Wakatipu Basin is zoned in the Queenstown Lakes Proposed District Plan (**PDP**) as Wakatipu Basin Rural Amenity Zone, which was promulgated to manage the Wakatipu Basin’s high rural amenity values. In the Upper Clutha part of the Queenstown Lakes District, the Wānaka and Hāwea Basins are identified in the PDP as Rural Character Landscapes, which have landscape values which are managed in terms of section 7(c) and 7(f) of the RMA, and gives effect to the Partially Operative Otago Regional Policy Statement Policy 3.2.6 (Managing highly valued natural features, landscapes and seascapes). I also note that other district plans identify and manage HVNFL, such as the ‘Significant Amenity Landscape’ notation in the Rural Resource Area/Zone of Operative Central Otago District Plan.
- 2.10 In the event that the amendments to EIT-INF-P13, or the bespoke policies supported by Ms Justice are accepted, in my view there needs to be the identification of important resource issues such as HVNFL. This is because the policy framework supported by Ms Justice in her Appendix C appears to manage only section 6 RMA matters (i.e Outstanding Natural Features and Outstanding Natural Landscapes), and then all other resource issues are oversimplified to be managed via the catch-all ‘avoid, remedy or mitigate other adverse effects’ limb (3) of proposed policy EIT-EN-PXX.
- 2.11 I consider that while the drafting of the pRPS needs at times to be broad so that each of the five local authorities can prepare their district plans to give effect to the pRPS in the context of each District, greater precision is required to Ms Justice’s bespoke activity policies to avoid the deficiency of important resource issues being overlooked or absent of any meaningful guidance. The concept of ‘avoiding, remedying or mitigating adverse effects’ provides very little guidance for local authorities when preparing district plans to give effect to the pRPS.

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<sup>4</sup> Evidence of Craig Barr 23 November 2022 at [5.24].

- 2.12 In addition, the new fourth limb of the proposed policy EIT-EN-PXX provides a prevailing limb, where EIT-EN-PXX prevails over any other policy in the pRPS which is in conflict with EIT-EN-PXX<sup>5</sup>.
- 2.13 In my view this approach is not any more appropriate than the amendments I support to Policy EIT-INF-P13 in my evidence to manage HVNFL, or the broader resource specific policies of the pRPS generally. Significant electricity distribution infrastructure activities are likely to engage with HVNFL across the region. I consider that this is inevitable within the Queenstown Lakes District because of the identified HVNFL areas occupying the majority of rural land that is not an ONF or ONL, and because in both the Otago Regional Council's policy (EIT-INF-P13) and the bespoke policies by Ms Justice, RSI is encouraged to avoid locating within Outstanding Natural Features or Outstanding Natural Landscapes. In my view the pRPS should set a clear management framework for these issues.

#### **Ms Claire Hunter for Contact Energy Limited**

- 2.14 Ms Hunter recommends that renewable energy generation (**REG**) is managed in a dedicated subchapter of the EIT section of the pRPS to<sup>6</sup>:
- (a) *appropriately recognise, provide for, protect and enable the very significant environmental benefits of REG, in terms of climate change mitigation; and*
  - (b) *provide a realistic and workable pathway, such that the adverse effects of REG activities are managed through a robust but practical effects mitigation hierarchy.*

- 2.15 I acknowledge Ms Hunter's evidence that currently the REG activities are cast across both the energy and infrastructure sections of the EIT chapter. I agree that there may be benefits in a stand-alone suite of policies, at least to resolve any internal conflicts between policies. Similar to the above statements I have made in relation to Ms Justice's evidence, I consider there is a risk that a bespoke policy framework for certain activities such as RSI or REG could omit important resource management issues that are relevant matters to manage under local authorities' district plans.

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<sup>5</sup> Evidence of Megan Justice 23 November 2022 Appendix C at Page 65.

<sup>6</sup> Evidence of Claire Hunter 23 November 2022 at [11.3].

- 2.16 Ms Hunter’s proposed policy EIT-EN-P5<sup>7</sup> seeks to manage the effects of REG. The way it does this is to identify section 6 RMA resources in its limb (1), then provide a management framework in limb (2), and all other resources are cast into limb (3) which is to ‘... *avoid, remedy or mitigate significant adverse effects and when considering any residual adverse effects have regard to offsetting measures and compensation*’.
- 2.17 Considering this in the context of the Queenstown Lakes District, the Hāwea River is subject to the effects of hydro electricity generation<sup>8</sup>, but the majority of the river is also identified in the PDP as being located within a Rural Character Landscape<sup>9</sup>, which is a HVNFL as identified in the pRPS. In addition, a portion of the Hāwea River is identified as a landscape priority area within the Upper Clutha, and is currently subject to a variation to the PDP to have the landscape values and attributes of this area identified in the PDP<sup>10</sup>, in accordance with PDP Strategic Policy 3.3.39.
- 2.18 For these reasons I consider that HVNFL are an important issue for REG, and any bespoke REG provisions in the pRPS should require reference to HVNFL.
- 2.19 I consider that the drafting proposed by Ms Hunter is not the most appropriate way to meet the objectives of the pRPS as it relates to REG. Rather, the policy drafting I support for Policy EIT-INF-P13 is more appropriate because it provides more detailed and meaningful drafting for the lower order plans such as district plans to give effect to.

### **Ms Ainsley Jean McLeod for Transpower New Zealand Limited**

- 2.20 Ms McLeod supports amendments to Policy EIT-INF-P13 – locating and managing effects of infrastructure to better give effect to the National Policy Statement on Electricity Transmission (**NPSET**). Similar to the comments I have made above in relation to Ms Justice’s evidence for electricity distribution

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<sup>7</sup> Ibid Appendix CH.2 Proposed Energy Sub Chapter.

<sup>8</sup> Evidence of Claire Hunter 23 November 2022 at [5.3], and evidence of Crad Coombs (Landscape) 23 November 2022 at [

<sup>9</sup> The southern portion of the Hāwea River is identified as an Outstanding Natural Landscape near the confluence of the Clutha Mata Au.

<sup>10</sup> URL link – downloaded 13 December 2022: <https://www.qldc.govt.nz/media/ho3nshkz/21-23-3-west-of-hawea-river-pa-rcl-schedule.pdf>

submitters, and Ms Hunter for REG and Contact Energy Limited, I consider that Ms McLeod's proposed drafting of EIT-INF-P13 would better manage rural amenity landscapes and amenity values in the rural context if the drafting of Policy EIT-INF-P13 included specific reference to HVNFL.

2.21 I agree with Ms McLeod that the pRPS must give effect to the NPSET, however the drafting in the pRPS itself, and structure of the relevant policies are not in my view required to be drafted to conform precisely with the NPSET. To do so while including other resources such as other RSI activities runs a risk of an incomplete policy framework for RSI.

2.22 For example, while I prefer my proposed amendments to Policy EIT-INF-P13 as set out in my evidence in chief, if Ms McLeod's proposed amendments to Policy EIT-INF-P13 are accepted, I recommend the following amendments to refer to HVNFL to be more appropriate.

- (a) At Policy EIT-INF-P13 (2)(viii) amend as follows:
  - (viii) areas of high recreation value and ~~areas of high amenity value in rural environments~~ highly valued natural features and landscapes, and
  - ...

2.23 I also consider that the effects management limb; limb (3)(a), falls short of achieving Part 2 of the RMA and section 6, by reverting very early to a 'remedy or mitigate approach', and only being required to have regard to the extent significant adverse effects are avoided (i.e refer to the cascade approach of limb (3)(a) then (ii)). As I have identified above, I consider that that a 'remedy or mitigate' policy approach offers very little in terms of guidance for the policy direction in lower order plans such as district plans (and regional plans).

2.24 The numbering and cross referencing within Ms McLeod's amended policy also appears to be inaccurate (i.e refer to limb (4) which refers to '6(a) to (f)' yet the policy only extends to limb (4)). This makes it unclear how the policy is to be implemented. I also note that Ms McLeod's policy at (3)(a)(vi) refers to an applicant or requiring authority in a proposal / development approval context and overlooks the important role of the policies in the pRPS in plan making.

2.25 For the above reasons I consider the version of EIT-INF-P13 in my evidence to be more appropriate.

A handwritten signature in blue ink, appearing to read 'Craig Barr', with a stylized flourish at the end.

**Craig Barr**

**14 December 2022**