

Under the Resource Management Act 1991 (**RMA**)
In the matter of The Otago Regional Council Proposed Otago Regional Policy Statement 2021 (excluding parts determined to be a freshwater planning instrument).

Submission by Dunedin City Council

Hearing Statement of Emily Kate McEwan for Dunedin City Council
14 February 2023

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**anderson
lloyd.**

1. Qualifications and experience

1.1 My name is Emily Kate McEwan. My qualifications and experience are as set out in my primary brief of evidence dated 28 November 2022.

2. Code of Conduct

2.1 I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note (2023) and I agree to comply with it. I confirm that the issues addressed in this statement are within my expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

3. Scope of statement

3.1 In this statement I will address my primary evidence on the Urban Form and Development (**UFD**) chapter of the Proposed Otago Regional Policy Statement 2021 (**pORPS**).

3.2 The key issues of concern to Dunedin City Council (DCC) primarily arise from its desire to conduct its urban planning and infrastructure delivery duties efficiently and effectively.

3.3 DCC's district plan has recently been through the full plan review process and provisions relating to urban growth and infrastructure are now largely settled and reflect community feedback and evidence received through the plan review process.

3.4 I will now outline the key issues of concern to DCC regarding the UFD chapter but note that other issues have been outlined in my primary evidence, which I take is read.

4. 'Avoid' provisions and their implications for giving effect to the NPS-UD

4.1 While issues with using broad 'avoid' policies have already been raised by others, I raise them again for their potential to impact the delivery of sufficient development capacity as part of giving effect to the National Policy Statement on Urban Development (**NPS-UD**).

4.2 Broad 'avoid' provisions can be found both within and outside the UFD chapter, including regarding infrastructure¹, natural hazards², highly productive land³, and reverse sensitivity⁴, amongst others.

¹ EIT-INF-M5(6) and EIT-TRAN-P21

² HAZ-NH-P5 and HAZ-NH-P10

³ UFD-O4(2), UFD-P4(6) and UFD-P8(4)

⁴ UFD-P6(3) and UFD-M2(3)(ea)

- 4.3 When read together with the direction in integrated management policy IM-P1, which directs pORPS users to apply all relevant provisions “according to the terms in which they are expressed”, broad ‘avoid’ provisions could prevent large areas of greenfield and even existing urban land from being available for additional development to meet demand.
- 4.4 For example, policy HAZ-NH-P10 would exclude from further development any land potentially affected by coastal hazards over at least the next 100 years, even where the risk is low.
- 4.5 The use of avoid policies should be much more targeted to activities likely to have unacceptable effects.

5. Undesirable complexity of the UFD chapter

- 5.1 In my primary evidence, I outlined several issues that collectively make the UFD chapter unnecessarily complex, difficult to interpret and hard to give effect to. These issues are:
- (a) An inconsistent approach to cross-referencing other relevant pORPS provisions;
 - (b) Duplication, conflict with, and re-engineering of the NPS-UD and NPS-HPL⁵;
 - (c) Objectives that do not clearly describe the desired end-state and that include ‘courses of action’ more appropriate for policies;
 - (d) Provisions that include a level of detail more appropriate for lower-order planning documents; and
 - (e) Provisions that relate to non-urban uses of rural land, which are not directly relevant to a chapter about urban land use.
- 5.2 As a result of addressing these issues, the drafting I provided in my primary evidence made substantial changes to the UFD chapter, primarily by deleting content and moving details from objectives to policies.
- 5.3 I think a streamlined approach to the UFD chapter is appropriate in the context of detailed national direction on urban development, the release of national direction on other related topics, the recent review of district plans such as Dunedin’s, and the impending RMA reform.

⁵ For example, the strategic planning provisions in the pORPS compared to the FDS requirements in the NPS-UD, and provisions seeking to avoid impacts on highly productive land as the first priority compared to NPS-HPL clause 3.6 setting out when rezoning of highly productive land can be appropriate.

5.4 Provisions that are complex risk, perhaps unintentionally, reopening lower-order planning documents for review in the short to medium term when the move to a new planning system is imminent and the benefits of such review are likely to be low.

6. Enabling transition of industrial zoned land

6.1 The pathway for the transition of industrial zoned land to other purposes provided in UFD-P6 remains of significant concern to DCC.

6.2 Clause 4 of UFD-P6 would allow industrial zoned land to be 'overtaken' by other urban activities (e.g. retail activity) in certain circumstances, provided that suitable alternative industrial land has been zoned.

6.3 The main cause for DCC's concern is that allowing transition has the potential to undermine Dunedin's goal of having a hierarchy of vibrant commercial centres anchored around one strong and vibrant CBD. This goal is expressed in three 2GP strategic objectives⁶ and is implemented throughout the 2GP's industrial and commercial provisions. Allowing transition would result in a pathway for commercial activities to spread out and away from centres.

6.4 Further reasons the industrial transition provision is problematic include that:

- (a) It risks reverse sensitivity effects on industrial uses as other activities transition into an area that was previously reserved for them by zoning;
- (b) Finding alternative land for industrial uses presents other policy conflicts, due to the land's likely location further from key services, and on flat land that is potentially highly productive land and subject to flood hazards; and
- (c) Enabling commercial activities to spread out encourages car-oriented retail patterns which do not align well with carbon reduction or compact city goals.

7. Encouraging rural lifestyle zoning adjacent to urban areas

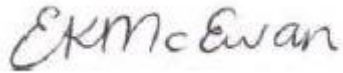
8. The requirement in UFD-P8 for rural lifestyle zoning to be located adjacent to existing or planned urban areas also remains of significant concern to DCC.

8.1 Rural lifestyle zoning located on or near urban fringes has the potential to frustrate efficient urban expansion into the future, including beyond the next 30 years. Examples

⁶ 2GP objectives 2.3.1, 2.3.2 and 2.4.3

of historic rural lifestyle zoning around Dunedin's urban fringe that have already left this legacy include an area at Halfway Bush.

- 8.2 A policy that encourages adjacency is sending the wrong message despite the qualifiers that have been promoted by the reporting officer and could set Dunedin up for some poor rezoning outcomes, potentially progressed by private plan change.

A handwritten signature in black ink that reads "EKMcEwan". The letters are cursive and somewhat slanted to the right.

Emily Kate McEwan

14 February 2023