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**OPENING STATEMENT OF MARCUS HAYDEN LANGMAN:  
ENERGY, INFRASTRUCTURE AND TRANSPORT**

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- 1 This statement provides an update on my understanding of the key issues in contention in relation to Chapter 11 – Energy, Infrastructure and Transport since Mr Peter Stafford prepared the section 42A report<sup>1</sup> and I prepared supplementary evidence<sup>2</sup> on this topic.
- 2 A key recommendation following pre-hearing meetings and as outlined in my supplementary evidence was structural re-alignment of the EIT sub-chapter so that INF preceded the EN and TRANS sub-chapters, as well transfer of provisions as they relate to the National Grid and electricity distribution to the EN sub-chapter.
- 3 In my view, the key issues which are the focus of submitter evidence are set out below. This is not intended to be exhaustive, as a range of other amendments are sought by submitters, which are addressed in the S42A report and supplementary S42A report. Those key issues are:
  - 3.1 Additions of activities to definition of regionally significant infrastructure, or otherwise maintenance of the existing definitions;
  - 3.2 Other submitters seek to ensure the definition of regionally and nationally significant infrastructure is not broadened, due to the policy approach (for example Kāi Tahu ki Otago)
  - 3.3 Use of the term “environmental limits” in the draft chapter;
  - 3.4 Structure of EIT-INF-P13, and in particular applying the effects management regime to all infrastructure, RSI and NSI;
  - 3.5 Amendments to EIT-EN-P5 to apply only to ‘large scale’ non-renewable energy generation activities, or otherwise change from ‘avoid’ to ‘restrict’;

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<sup>1</sup> Chapter 11 Energy Infrastructure and Transport (4 May 2022)

<sup>2</sup> Brief of supplementary evidence of Marcus Hayden Langman – Energy, Infrastructure and Transport (11 October 2022)

- 3.6 Consider the approach for reverse sensitivity in the chapter, and seek a consistent approach;
- 3.7 Inclusion of new provisions around significant electricity distribution infrastructure (**SEDI**), and how they are to be provided for;
- 3.8 Greater recognition of effects of climate change on infrastructure operation, maintenance and development;
- 3.9 Whether to provide a self-contained section for renewable electricity generation activities (sought by Contact Energy Limited, Manawa Energy and Meridian Energy Limited) and electricity distribution (Aurora, Network Waitaki and PowerNet); and
- 3.10 Consideration of provision for commercial port activities.

#### **Extent of definitions for Regionally and Nationally Significant Infrastructure**

- 4 Evidence has been put forward seeking addition of particular classes of infrastructure to, or amendments to, the definitions of regionally significant infrastructure, or nationally significant infrastructure. These include:
  - 4.1 Electricity transmission network and sub-transmission infrastructure, and SEDI;<sup>3</sup>
  - 4.2 Community corrections facilities;<sup>4</sup>
  - 4.3 Roads except for local urban or rural roads under the One Network Framework;<sup>5</sup>
  - 4.4 Municipal landfills;<sup>6</sup>
  - 4.5 Established community scale irrigation and stockwater infrastructure;<sup>7</sup>
  - 4.6 International and inter-regional telecommunications links;<sup>8</sup> and
  - 4.7 Changes to how airports might be included within the definition of regionally significant infrastructure.<sup>9</sup>

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<sup>3</sup> EiC M Justice (Aurora, Network Waitaki, PowerNet) at para 7.1-7.15

<sup>4</sup> EiC M Dale (Ara Poutama) at para 6.1-6.27

<sup>5</sup> EiC J Taylor (DCC) at para 65-75

<sup>6</sup> EiC C Barr (QLDC) at para 3.1-3.13

<sup>7</sup> EiC E Soal (Waitaki Irrigators Collective) at para 28-47

<sup>8</sup> EiC C Horne (Chorus, Spark and Vodafone) at para 5.7-5.22

<sup>9</sup> EiC M Bonis (Christchurch International Airport Limited) at para 21-59

- 5 The evidence submitted also recognises the need to carefully consider the additions to the definitions, given that the framework for RSI and NSI is somewhat more lenient than for these classes of infrastructure, when compared to infrastructure that is of a general nature.<sup>10</sup> As an example, Kāi Tahu ki Otago seeks that limit the approach as it relates to facilities for public transport, so that only more substantial transport infrastructure activities are captured in the definition of RSI.<sup>11</sup>

### **Environmental limits**

- 6 Ms Felicity Boyd for Otago Regional Council has addressed the matter of ‘environmental limits’ with the Hearings Panel.<sup>12</sup> In addition to the evidence referenced in Ms Boyd’s statements, this is also addressed in evidence in relation to the EIT chapter.<sup>13</sup> Mr Brass for the Director General for Conservation in particular is concerned that infrastructure only needs to meet limits, rather than avoid, remedy or mitigate adverse effects, as well as how the reference to limits fits with commercial port activities and the cross-references to the Coastal Environment chapter. Ms McIntyre for Kāi Tahu ki Otago seeks re-instatement of the term ‘environmental limits’.<sup>14</sup> Ms O’Callaghan for Port Otago also raises this issue in relation to Commercial Port Activity provisions, opposing its inclusion<sup>15</sup>.

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

- 7 Proposed policy EIT-INF-P13 is the key policy that relates to the development of new infrastructure, whether it is proposed to be at a local level, or nationally or regionally significant, and regardless of the type of infrastructure proposed, whether it is renewable electricity generation activities, electricity transmission or distribution, or roading. This is addressed in the s42A report and supplementary evidence<sup>16</sup>. Nearly all submitters seek amendment to, or exclusion from, this

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<sup>10</sup> For example EiC C Barr (QLDC) at 3.8, EiC S McIntyre (Kāi Tahu ki Otago) at 116-122, Rebuttal evidence L Wharfe (HortNZ) at para 59-75

<sup>11</sup> EiC S McIntyre (Kāi Tahu ki Otago) at para 122

<sup>12</sup> Opening statement of Felicity Ann Boyd: Introduction and General Themes (25 January 2023) at para 12-15, Opening statement of Felicity Ann Boyd: Integrated Management (8 February 2023), at para 8-12.

<sup>13</sup> EiC C Horne (Chorus, Spark and Vodafone) at para 6.1-6.14, EiC M Brass (Director-General for Conservation) at para 200-207

<sup>14</sup> EiC S McIntyre (Kāi Tahu ki Otago) at para 109(b) and 132

<sup>15</sup> EiC M O’Callaghan at para 52-62

<sup>16</sup> S42 Report EIT at para 695-744, Supplementary S42 report at para 15-29

policy, including through the provision of bespoke provisions for effects management for particular types of infrastructure.<sup>17</sup>

- 8 I consider a key issue for the Hearings Panel to address in relation to EIT-INF-P13 is to ensure that in making any changes, that decision-makers are still required to *recognise and provide* for those matters that are set out in Section 6. This includes ensuring that in some circumstances areas are protected from *inappropriate* subdivision, use and development<sup>18</sup>; and that for other areas, such as significant indigenous vegetation and significant habitats of indigenous fauna, protected customary rights, or the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga, are protected or provided for in their own right.

### **Avoidance of development of non-renewable energy generation activities**

- 9 A number of submitters raised concerns regarding policy EIT-EN-P5 which provides that development of non-renewable energy generation activities are avoided. This includes concerns from submitters regarding operational issues which may limit activities associated with production, such as Fonterra<sup>19</sup> and Ravensdown,<sup>20</sup> as well as concern as to the scale of non-renewable energy generation activities which are impacted by the proposed policy.<sup>21</sup> While QLDC submitted on the policy, Mr Barr agrees with the S42A report recommendation and does not consider alternative wording to be more appropriate than the notified wording.<sup>22</sup>

### **Reverse sensitivity**

- 10 Provisions relating to reverse sensitivity were amended in response to submissions by Queenstown Airport. Ms McIntyre for Kāi Tahu ki Otago has raised concern regarding future proofing of reverse sensitivity for possible future infrastructure development (EIT-INF-P15(3)), and whether the use of the word

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<sup>17</sup> For example EiC C Hunter (Contact Energy) at para 11.1-11.29, EiC M Justice at para 13.22-13.23, EiC S Styles (Manawa Energy) at para 10.4-10.14, EiC A McLeod (Transpower) at para 8.31-8.39, EiC S McIntyre (Kāi Tahu ki Otago) at para 124-125

<sup>18</sup> S6(a), (b), (f)

<sup>19</sup> EiC Susannah Tait (Fonterra) at para 11.1-11.3

<sup>20</sup> CiC C Taylor (Ravensdown) at para 7.1-7.11

<sup>21</sup> EiC J Taylor at para 59-64

<sup>22</sup> EiC C Barr (QLDC) at para 4.1-4.3

“protecting” in relation to infrastructure is appropriate.<sup>23</sup> Concern regarding the wording was also raised in the evidence of Ms Wharfe for HortNZ.<sup>24</sup> Ms McLeod for Transpower the evidence of both submitters on this matter in her rebuttal.<sup>25</sup>

- 11 In relation to this topic, it is my opinion that the Hearings Panel will need to turn its mind to whether the use of the word “protect” is appropriate for all matters covered by the policy, recognising the concerns raised by Ms Wharfe and Ms McIntyre. In addition, consideration may need to be given to ensuring that reverse sensitivity in relation to infrastructure follows a clear and responsive approach, without unduly impacting on the ability for landowners to develop or undertake appropriate activities on their land.

### **Provision for Renewable Electricity Generation, the National Grid, and electricity distribution networks**

- 12 The supplementary S42A report introduced new provisions for electricity distribution networks, including SEDI. As noted above, the distribution network providers seek that SEDI are included as regionally significant infrastructure. In addition to this Ms Justice for Aurora, Network Waitaki, and PowerNet, seeks provision for an alternative effects management hierarchy for the National Grid and distribution networks.<sup>26</sup> These matters are also addressed in the rebuttal evidence of Mr Barr for QLDC.<sup>27</sup> While Transpower initially sought a separate carve-out provision for the National Grid, Ms McLeod has set out in her evidence her preference for amendment of EIT-INF-P13 and P13A.<sup>28</sup>
- 13 In a similar manner, the Renewable Electricity Generators seek substantial changes to the way that renewable electricity generation is provided for in the chapter, as noted above removing this from the application of EIT-INF-P13 and applying bespoke provisions in the Energy chapter that are set out in evidence.<sup>29</sup> Other submitters have provided further submissions on the proposal put forward, opposing the exclusions.<sup>30</sup>

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<sup>23</sup> EiC S McIntyre (Kāi Tahu ki Otago) at para 127

<sup>24</sup> EiC L Wharfe (HortNZ) at para 223-235

<sup>25</sup> Rebuttal evidence A McLeod (Transpower) at para 3.1-4.6

<sup>26</sup> EiC M Justice (Aurora, Network Waitaki and PowerNet) at para 13.22-13.23 and Appendix C  
<sup>27</sup> Rebuttal C Barr (QLDC) at para 2.3-2.13

<sup>28</sup> EiC A McLeod (Transpower) at para 8.31-8.45, Attachment A

<sup>29</sup> EiC C Hunter (Contact) at para 11.1-11.29, Appendix 2, EiC S Styles (Manawa) at para 10.9-10.24, Appendix 4, EiC S Ruston (Meridian) at para 36-52, 89-114, Annexure 1

<sup>30</sup> Rebuttal C Barr (QLDC) at para 2.14-2.19, Rebuttal S McIntyre at para 33-38, Rebuttal B Farrell (Otago Fish and Game) at para 55-60

- 14 One of the key aspects that is highlighted in terms of the proposed amendments is that the generators' proposed EIT-EN-P5 limits the consideration of areas to avoid only to those that are scheduled in plans. This is particularly important in terms of indigenous biodiversity, where knowledge of significant natural areas is uncertain, changes over time, or is unknown because the area has not been studied. This is recognised in ECO-P3(3) which provides for a precautionary approach where SNAs have not been identified or mapped. As noted above, the key issue for the Hearings Panel is ensuring that the final drafting of provisions appropriately recognises and provides for those matters in S6, while at the same time ensuring that the provisions give effect to the relevant national policy statements.

### **Recognition of the effects of climate change on infrastructure**

- 15 Ms McIntyre for Kāi Tahu ki Otago has recommended that recognition is given to the impact of climate change on infrastructure.<sup>31</sup> She considers that this matter is important given the potential effects of infrastructure assets on mahika kai, as an example, and the need to provide for resilience more generally.

### **Appropriate treatment for commercial port activities in relation to natural environment**

- 16 The treatment of commercial port activities is a matter of interest for Port Otago, as well as other submitters, including Ravensdown who operate alongside the wharf at Ravensbourne, as well as being commercial users of the wharf. Ravensdown sought amendment to the definition of commercial port activity to ensure that the wharf at Ravensbourne itself was addressed through the definition. These are now agreed, with Ms Taylor recommending a consequential amendment to EIT-TRAN-M8 for consistency.<sup>32</sup>
- 17 As it stands, the drafting for provisions for commercial port activities reflect the Court of Appeal's decision on the hierarchy of activities in the coastal environment as they relate to natural environment provisions in the New Zealand Coastal Policy Statement. That decision is under appeal to the Supreme Court, with a decision pending, and I understand that consideration of this matter is to be deferred until later in these hearings.

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<sup>31</sup> EIC S McIntyre (Kāi Tahu ki Otago) at para 128

<sup>32</sup> EIC C Taylor (Ravensdown) at para 7.12-7.21

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18 Ms O'Callaghan for Port Otago has helpfully provided two options for the Port's preferred drafting of EIT-TRAN-P23 which reflect two possible outcomes for the Supreme Court decision.<sup>33</sup> Ms O'Callaghan also seeks a range of other changes to provisions in support of the Port's submission. In addition, Mr Brass also addresses the drafting of the policy, noting his concern regarding the reference to 'limits' when not all of the policies in the CE chapter, which is cross-referenced in the policy, are strictly limits.<sup>34</sup>

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Marcus Hayden Langman

13 March 2023

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<sup>33</sup> EIC M O'Callaghan at Appendix 1 Page 26

<sup>34</sup> EIC M Brass (Director-General for Conservation) at para 205-207