
Under	the Resource Management Act 1991 (RMA)
In the matter of	an appeal under Clause 14(1), First Schedule of the RMA in relation to the proposed Otago Regional Policy Statement (pORPS)
Between	Real Journeys Appellant
And	Otago Regional Council Respondent

Notice of appeal

09th December 2016

Appellant's solicitors:

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To: The Registrar
Environment Court
Christchurch

- 1 Real Journeys appeals part of the decisions of the Otago Regional Council (**ORC**) on the proposed Otago Regional Policy Statement (**pORPS**).
- 2 Real Journeys made a submission¹ (**Submission**) on the pORPS.
- 3 Real Journeys is not a trade competitor for the purposes of section 308D of the RMA.
- 4 Real Journeys received notice of the decisions on 1 October 2016.
- 5 The decisions were made by the ORC.

The Appellant

- 6 Real Journeys operates and owns world renowned natural heritage tourism activities throughout the southern South Island, primarily in Christchurch, Stewart Island, Te Anau, Milford Sound, Doubtful Sound, Wanaka and Queenstown. Real Journeys is widely regarded as a leader in the New Zealand tourism industry and is regularly named as one of New Zealand's highest achieving tourism companies.
- 7 Queenstown is a spectacular alpine resort with magnificent scenery and is a four season destination for visitors. Real Journeys has a considerable asset base and investment interest in the protection of and ability to use, develop and access the districts natural and physical resources. Real Journeys will continue to invest in the growth of Queenstown tourism sector and contribute to the management of the districts significant natural, heritage and other environmental values.
- 8 Real Journeys considers it is vital that the policy statement for the Otago Region represent and take into account the specific characteristics of each of its Districts. The pRPS should not unnecessarily restrict use and development of natural and physical resources, where such use and development is consistent with the Act.

¹ Dated 24 July 2015 (submission 0138)

Decisions appealed

- 9 The following parts of the pORPS are references to the ORC 'Decision Version,' unless otherwise stated. Footnotes are included where references in the Decision Version have changed from the pORPS as notified.
- 10 The parts of the decisions being appealed, reasons for the appeal and relief sought are grouped together by topic where possible.

Provisions appealed, reasons, and relief

11 Economic Wellbeing (New Policy 1.1.2)

- (a) New Policy 1.1.2 provides for the economic wellbeing of the Otago Region within the constraints imposed by the pORPS objectives and policies.
- (b) Provision for economic wellbeing is generally supported, however should be worded in a more enabling manner so as to ensure that desirable economic wellbeing is not unnecessarily restricted.

Relief

- (c) Real Journeys seeks that Policy 1.1.2 Economic wellbeing be amended to read:

Policy 1.1.2

Provide for the economic wellbeing of Otago's people and communities by enabling the use and development of natural and physical resources ~~only if the adverse effects of those activities on the environment can be managed to give effect to the objectives and policies of the Regional Policy Statement.~~

12 Significant Economic Industry Activities (new objective, policy and method sought by Real Journeys)

- (a) Significant economic industry activities, particularly tourism, should be defined, recognised and provided for, given the regional importance of domestic and international tourism.
- (b) The Submission from Real Journeys requested that new objectives, policies, and methods be provided in the RPS which have not been accepted in the Decision.

Relief

- (c) Real Journeys seeks the following new objectives, policy and method be inserted into the pORPS:

New Objective:

Significant Industry activities and physical resources are provided for

New Policy:

Recognising and providing for significant industry activities and physical resources by:

- (a) Recognising that the use, development and protection of physical resources enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety;
- (b) Protecting significant industry activities from inappropriate subdivision, use, and development;
- (c) Enabling new and expanded significant industry activities and development that does not have a significant adverse effect on the environment; and providing for all other significant industry activities and development if adverse effects on the environment are avoided, remedied, or mitigated.

New Method:

Regional, city, and district councils will ensure Regional and District Plans set objectives, policies and methods to:

- (a) Recognise that development, use, and protection of physical resources and the urban environment enables people and communities to provide for their social, economic, and cultural wellbeing;
- (b) Protect significant industry activities from inappropriate subdivision, use, and development;
- (c) Enable significant industry activities and development that does not have a significant adverse effect on the environment;
- (d) Provide for urban development and all other significant industry activities and development that does not have a significant adverse effect on any matter of national importance or national significance.

13 **Natural resources including fresh water (Objective 3.1, Policies 3.1.1, 3.1.2, 3.2.14, 3.1.7, 3.2.17, and 3.2.18²)**

- (a) Objective 3.1 and the listed policies should be amended to reflect the pORPS as being a **regional** level document, without interfering with local resource management issues that are not of regional significance. The

² Previously Objective 2.1 and Policies 2.1.1, 2.1.2, 2.2.13, 2.1.5, 2.2.14, and 2.2.15

objective and related policies should therefore refer to just 'regionally significant values'. This Objective also inappropriately provides that all natural resources must be maintained and enhanced, which is a higher threshold than that provided in the Act. The wording of the Submission is more appropriate so as to provide for the protection from inappropriate use and development.

- (b) The pORPS applies too high a test for protection of the migratory patterns of freshwater species and important recreation values. The requirement to 'recognise and provide for' may be seen as a more onerous requirement than 'maintain'; and
- (c) The pORPS applies too high a test for protection of outstanding water bodies and wetlands. Limiting protection to the 'significant' values of outstanding water bodies and wetlands is the correct interpretation of Objective A2 and Objective B4 of the National Policy Statement for Freshwater Management 2014.
- (d) The pORPS applies too high a test for maintaining and enhancing all soil values in the region (rather than just those of regional significance). The requirement to avoid the creation of contaminated land is an unrealistic and onerous requirement to achieve.

Relief

- (e) Real Journeys seeks that Objective 3.1, Policies 3.1.1, 3.1.2, 3.2.14, 3.1.7, 3.2.17, and 3.2.18 be amended to read:

Objective 3.1: The regionally significant values of Otago's natural and physical resources are recognised and protected from inappropriate subdivision, use and development, ~~maintained and enhanced~~

Policy 3.1.1 - Managing for freshwater values

Recognise regionally significant freshwater values, and manage freshwater, to:

- (a) *Support healthy ecosystems in all Otago aquifers, and rivers, lakes, wetlands, and their margins; and*
- (b) *Retain the range and extent of habitats provided by freshwater; and*
- (c) *Protect outstanding water bodies and wetlands from inappropriate subdivision, use and development; and*
- (d) *Protect migratory patterns of freshwater species from inappropriate subdivision, use and development, unless detrimental to indigenous biodiversity; and*

- (e) *Avoid aquifer compaction, and seawater intrusion in aquifers; and*
- (f) *Maintain good water quality, including in the coastal marine area, or enhance it where it has been degraded; and*
- (g) *Maintain or enhance coastal values supported by freshwater values; and*
- (h) *Maintain or enhance the natural functioning of rivers, lakes, and wetlands, their riparian margins, and aquifers; and*
- (i) *Retain the quality and reliability of existing drinking water supplies; and*
- (j) *Protect Kāi Tahu values from inappropriate subdivision, use and development; and*
- (k) *Provide for other cultural values, as identified in Schedule 1A; and*
- (l) *Protect important recreation values from inappropriate subdivision, use and development; and*
- (m) *Maintain the aesthetic and landscape values of rivers, lakes, and wetlands; and*
- (n) *Avoid the adverse effects of pest species, prevent their introduction and reduce their spread; and*
- (o) *Mitigate the adverse effects of natural hazards, including flooding and erosion; and*
- (p) *Maintain the ability of existing infrastructure to operate within their design parameters.*

Policy 3.1.2 - Managing for the values of beds of rivers and lakes, wetlands, and their margins

Recognise the values of beds of rivers and lakes, wetlands, and their margins, and manage them to:

- (a) *Protect or restore their natural functioning; and*
- (b) *Protect outstanding water bodies and wetlands from inappropriate subdivision, use and development; and*
- (c) *Maintain good water quality, or enhance it where it has been degraded; and*
- (d) *Maintain ecosystem health and indigenous biodiversity; and*
- (e) *Retain the range and extent of habitats supported; and*
- (f) *Maintain or enhance natural character; and*
- (g) *Protect Kāi Tahu values from inappropriate subdivision, use and development; and*
- (h) *Provide for other cultural values, as identified in Schedule 1A; and*

- (i) *Maintain their aesthetic and amenity values; and*
- (j) *Avoid the adverse effects of pest species, prevent their introduction and reduce their spread; and*
- (k) *Mitigate the adverse effects of natural hazards, including flooding and erosion; and*
- (l) *Maintain bank stability.*

Policy 3.1.7 - Managing for soil values

Recognise soil values that are of a regional significance, and manage those soils, to:

- (a) *Maintain their life supporting capacity; and*
- (b) *Maintain soil biodiversity; and*
- (c) *Maintain biological activity in soils; and*
- (d) *Maintain soil's function in the storage and cycling of water, nutrients, and other elements through the biosphere; and*
- (e) *Maintain soil's function as a buffer or filter for pollutants resulting from human activities, including aquifers at risk of leachate contamination; and*
- (f) ~~Retain~~ *Ensure the primary use of regionally significant soil resources is for primary production purposes; and*
- (g) *Protect Kāi Tahu values from inappropriate subdivision, use and development; and*
- (h) *Provide for other cultural values, as identified in Schedule 1A; and*
- (i) *Maintain the soil mantle where it acts as a repository of heritage objects; and*
- (j) *Maintain highly valued soil resources; and*
- (k) *Avoid contamination of soil from inappropriate subdivision, use and development; and*
- (l) *Avoid the adverse effects of pest species, prevent their introduction and reduce their spread.*

Policy 3.2.14- Managing outstanding water bodies and wetlands

~~Protect~~ *Manage subdivision, use and development that affects the values of outstanding water bodies and wetlands by:*

- (a) *Avoiding significant adverse effects from inappropriate subdivision, use and development, including cumulative effects, on those values which contribute to the water body or wetland being outstanding; and*
- (b) *Avoiding, remedying or mitigating other adverse effects on the water body or wetland's values; and*

- ~~(e) Assessing the significance of adverse effects on values, as detailed in Schedule 3; and~~
- (c) Controlling the adverse effects of pest species, preventing their introduction and reducing their spread; and
- (d) Encouraging enhancement of outstanding water bodies and wetlands.

Policy 3.2.17 - Identifying ~~highly~~ regionally significant ~~valued~~ soil resources

Identify areas and values of ~~highly valued~~ regionally significant soil resources, using the following criteria:

- (a) Degree of versatility for primary production;
- (b) Significance for providing pollutant buffering or filtering services;
- (c) Significance for providing water storage or flow retention services;
- (d) Degree of rarity.

Policy 3.2.18 - Managing ~~highly valued~~ regionally significant soil resources

Protect the values of ~~areas of highly valued~~ regionally significant soil resources, by:

- (a) Avoiding significant adverse effects from inappropriate subdivision, use and development on those values which contribute to the soil being ~~highly valued~~ regionally significant; and
- (b) Avoiding, remedying or mitigating other adverse effects on values of those soils; and
- ~~(e) Assessing the significance of adverse effects on values, as detailed in Schedule 3; and~~
- (d) Recognising that loss of regionally significant soils to urban expansion development may be appropriate near due to location and proximity to existing urban development, and infrastructure particularly when there is a lack of supply of land available for urban development.

14 Significant Indigenous Biodiversity (Policies 3.1.9, 3.2.1, 3.2.2³)

- (a) Section 6(c) of the RMA requires the protection of areas of 'significant' indigenous vegetation, and 'significant' habitats of indigenous fauna; the pORPS should therefore provide for 'maintenance' of those section 6(c) values which enables both protection, and better recognises the value of existing activities affecting ecosystem and indigenous biodiversity values.

³ Previously Policies 2.1.6, 2.2.1 and 2.2.2

- (b) Real Journeys seeks that Policies 3.1.9, 3.2.1, 3.2.2 be amended as follows:

Policy 3.1.9 - Managing for ecosystem and indigenous biodiversity values

Recognise the values of ecosystems and indigenous biodiversity, and manage ecosystems and indigenous biodiversity, to:

- (a) *Maintain or enhance ecosystem health and indigenous biodiversity; and*
- (b) *Maintain or enhance areas of predominantly indigenous vegetation; and*
- (c) *Buffer or link existing ecosystems; and*
- (d) *Protect important hydrological services, including the services provided by tussock grassland; and*
- (e) *Protect natural resources and processes that support indigenous biodiversity from inappropriate subdivision, use and development; and*
- (f) *Maintain habitats of indigenous species that are important for recreational, commercial, cultural or customary purposes; and*
- (g) *Protect biodiversity significant to Kāi Tahu from inappropriate subdivision, use and development; and*
- (h) *Avoid the adverse effects of pest species, prevent their introduction and reduce their spread.*

Policy 3.2.1 - Identifying areas of significant indigenous vegetation and significant habitats of indigenous fauna

Identify areas and values of significant indigenous vegetation and significant habitats of indigenous fauna, using the attributes detailed in Schedule 4.

Policy 3.2.2 - Managing significant indigenous vegetation and significant habitats of indigenous fauna

~~*Protect and enhance*~~ *Manage subdivision, use and development that affects the values of areas of significant indigenous vegetation and significant habitats of indigenous fauna, by:*

- (a) *Avoiding adverse effects ~~on those values which contribute to~~ which will result in the area or habitat losing its being significant status; and*
- (b) *Avoiding significant adverse effects from in appropriate subdivision, use and development on other values of the area or habitat; and*
- ~~(c) *c) Assessing the significance of adverse effects on those values, as detailed in Schedule 3; and*~~
- (d) *Remediating, when adverse effects cannot be avoided; and*

- (e) *Mitigating where adverse effects cannot be avoided or remediated; and*
- (f) *Encouraging enhancement of those areas and values.*

15 **Landscapes, Seascapes and Natural Character (Policies 3.1.10, 3.2.3, 3.2.4, 3.2.5, 3.2.6 and Schedule 3⁴)**

- (a) Otago's significant and highly valued natural resources should be recognised and managed to a standard which is consistent with section 6 and 7 of the Act. Objective 3.2 would be of more assistance to plan users if it were to achieve protection and enhancement for a particular purpose (to maintain the distinctiveness of those natural resources), as stated in the Submission.
- (b) The attributes for determining the relative values of landscapes, seascapes and natural character listed in Schedule 3 are not consistent with contemporary landscape planning practices and case law. It is not appropriate that policies 3.2.3 and 3.2.5 require that all outstanding natural features, landscapes and seascapes be identified using the attributes listed in Schedule 3, alongside highly valued natural features, landscapes and seascapes. This is unnecessarily restrictive and does not allow district specific analysis.
- (c) The pORPS applies the same attributes to identify highly valued and outstanding natural features, landscapes and seascapes and does not provide any further guidance for how they apply the attributes.
- (d) The pORPS requires the protection of highly valued natural features, landscapes and seascapes; effectively treating them the same as outstanding natural features, landscapes and seascapes.
- (e) The pORPS does not differentiate between natural features, landscapes and seascapes within and outside the coastal environment. This does not give effect to the requirements of the New Zealand Coastal Policy Statement 2010, and does not give effect to sections 6 and 7 of the Act.

Relief

- (f) Real Journeys seeks that Policies 3.1.10, 3.2.3, 3.2.4, 3.2.5, 3.2.6 and Schedule 3 be amended as follows:

Policy 3.1.10 - Recognising the values of natural features, landscapes, and seascapes

⁴ Previously Policies 2.1.7, 2.2.3, 2.2.4, 2.2.5, 2.2.6, and Schedule 4

Recognise the values of natural features, landscapes, seascapes and the coastal environment are derived from the following attributes, as detailed in Schedule 4:

- (a) *Biophysical attributes, including:*
 - (i) *Natural science factors;*
 - (ii) *The presence of water;*
 - (iii) *Vegetation (indigenous and introduced);*
 - (iv) *The natural darkness of the night sky;*
- (b) *Sensory attributes, including:*
 - (i) *Legibility or expressiveness;*
 - (ii) *Aesthetic values;*
 - (iii) *Transient values, including nature's sounds;*
 - (iv) *Wild or scenic values;*
- (c) *Associative attributes, including:*
 - (i) *Whether the values are shared and recognised;*
 - (ii) *Cultural and spiritual values for Kāi Tahu;*
 - (iii) *Historical and heritage associations.*

Policy 3.2.3 - Identifying outstanding natural features, landscapes and seascapes

Identify areas and values of outstanding natural features, landscapes and seascapes, using the attributes as detailed in Schedule 4.

Policy 3.2.4 - Managing outstanding natural features, landscapes, and seascapes

~~*Protect, enhance and restore*~~ *Manage subdivision, use and development that affects the values of outstanding natural features, landscapes and seascapes, by:*

- ~~(a) *Avoiding adverse effects on those values which contribute to which will result in the loss of the significance of the natural feature, landscape or seascape; and*~~
- (b) *Avoiding, remedying or mitigating other adverse effects on other values; and*
- ~~(c) *Assessing the significance of adverse effects from inappropriate use and development on values, as detailed in Schedule 3; and*~~
- (d) *Recognising and providing for positive contributions of existing introduced species to those values; and*

- (e) *Controlling the adverse effects of pest species, preventing their introduction and reducing their spread; and*
- (f) *Encouraging enhancement of those areas and values.*
- (g) *Recognising that appropriately designed and managed recreational activities in such locations can be appropriate, and can entail community benefits such as the enjoyment of landscape values*
- (h) *Recognising that when activities have a functional need to locate within such places and emphasis on mitigating or remedying adverse effects rather than avoiding them may be appropriate.*

Policy 3.2.5 - Identifying special amenity landscapes and highly valued natural features

Identify areas and values of special amenity landscape or natural features which are highly valued for their contribution to the amenity or quality of the environment, but which are not outstanding, ~~using the attributes detailed in Schedule 4.~~

Policy 3.2.6 - Managing special amenity landscapes and highly valued natural features

~~*Protect or enhance the values of*~~ *Manage special amenity landscapes and highly valued natural features, by:*

- (a) *Avoiding, remedying or mitigating ~~significant~~ adverse effects on those values which contribute to the special amenity of the landscape or high value of the natural feature; and*
- ~~(b) *Avoiding, remedying or mitigating other adverse effects on other values; and*~~
- ~~(c) *Assessing the significance of adverse effects on those values, as detailed in Schedule 3; and*~~
- (d) *Recognising and providing for positive contributions of existing introduced species to those values; and*
- (e) *Controlling the adverse effects of pest species, preventing their introduction and reducing their spread; and*
- (f) *Encouraging enhancement of those values.*
- (g) *Recognising and providing for the use of such resources including as places where productive activities, tourism, recreation, infrastructure, education facilities, homes and work places are located.*
- (h) *Allowing values to adapt over time as communities and economies change*

Schedule 3

Delete Schedule 3

16 **Urban Design and Growth (Policies 4.5.1, 4.5.2, 4.5.3, 4.5.7, Schedule 5⁵)**

- (a) The pORPS refers to the minimising of adverse effects on rural activities and loss of significant soils under Policy 4.5.1; the strong emphasis in this policy on rural productivity and loss of significant soils is inappropriate as this is this does not take into account the ability and value in diversifying rural land to provide for efficient and appropriate development;
- (b) The pORPS seeks to manage the release of land under Policies 4.5.1 and 4.5.2. These policies provide for management of future growth and development with reference to 'future growth areas' and 'future urban development areas'. It is unclear how these terms are intended to overlap. These matters are more appropriately dealt with by territorial authorities than at a regional policy level; and
- (c) The proposed controls over where and how growth is managed within growth boundaries does not achieve any relevant resource management purpose, including relating to the management of any adverse effects on the environment.
- (d) Urban design policies located in 4.5.3, and Schedule 5 are not appropriate to be implemented at a region wide level. Schedule 5 is unlikely to serve a useful purpose and the efficiency and effectiveness, costs and benefits of it and the detailed urban design principles it sets out, were not assessed in the section 32 evaluation in preparing the pORPS.
- (e) These urban design principles have the potential to conflict with district specific design principles and add an additional layer of unnecessary regulation in resource consent and plan change assessments.
- (f) Additions to Policy 4.5.7 will now require that all growth and development be located in areas that have sufficient infrastructure capacity rather than ensuring that infrastructure can be provided. The amendments are unnecessarily restrictive and inhibit innovation.

Relief

- (g) Real Journeys seeks that Policies 4.5.1, 4.5.2, 4.5.3, 4.5.7, Schedule 5 be amended as follows:

⁵ Previously Policies 3.8.1, 3.8.2, 3.7.1, 3.4.1, and Schedule 6

Policy 4.5.1- ~~Managing~~ Providing for urban growth

Manage Provide for urban growth and creation of new urban land in a strategic and co-ordinated way, by:

- (a) *~~Understanding demand and supply of Managing land use to~~ ~~Ensuring there is sufficient residential, commercial and industrial zoned land capacity, to~~ and catering for ~~that demand for such land, projected over at least the next 10 years;~~ and*
- (b) *Co-ordinating urban growth and extension of urban areas with relevant infrastructure development programmes, to;*
 - (i) *Provide infrastructure in an efficient and effective way; and*
 - (ii) *~~Avoid~~ Discouraging additional costs on the public that arise from unplanned infrastructure expansion; and*
- (c) *Identifying future growth areas that;*
 - (i) *Minimise significant adverse effects on rural ~~the productivity of the rural and tourism sectors, including loss of highly valued soils or creating competing urban demand for water and other resources;~~ and*
 - (ii) *Can be developed without resulting in significant adverse effects on ~~Maintain or enhance any matter of national importance or national significance~~ significant biodiversity, landscape or natural character values; and*
 - (iii) *~~Maintain important cultural or heritage values;~~ and*
 - (iii) *Avoids land with significant risk from natural hazards ~~which cannot be remedied or mitigated;~~ and*
- (d) *Considering the need for urban growth boundaries to control ~~potentially inappropriate~~ urban expansion; and*
- (e) *Ensuring efficient use of land; and*
- (f) *Requiring the use of low or no-emission heating systems in buildings, ~~when~~ where ambient air quality ~~in or near the growth area~~ is;*
 - (i) *Below standards for human health; or*
 - (ii) *Vulnerable to degradation given the local climatic and geographical context; and*
- (g) *Giving effect to the principles of good urban design, ~~as detailed in Schedule 6;~~ and*
- (h) *Giving effect to the principles of crime prevention through environmental design.*
- (i) *Ensure sufficient land is supplied for residential uses to assist with housing affordability.*

~~Policy 4.5.2 - Controlling urban growth where there are identified urban growth boundaries or future urban development areas~~

~~Where urban growth boundaries, as detailed in Schedule 8, or future urban development areas, are needed to control urban expansion, control the release of land within those boundaries or areas, by:~~

- ~~(a) Staging development, using identified triggers to release new stages for development; or~~
- ~~(b) Releasing land in a way that ensures a logical spatial development, and efficient use of existing land and infrastructure before new land is released; and~~
- ~~(c) Avoiding urban development beyond the urban growth boundary or future urban development area, unless there is a shortage of land available for urban development.~~

~~Method 2: Regional, City and District Council Relationships~~

~~Method 4: City and District Plans~~

~~Method 5: Regional Policy Statement~~

~~Method 7: Strategies and Plans (non-RMA)~~

~~Policy 4.5.3- Using the principles of good urban design~~

~~Encourage the use of good urban design principles in subdivision and development in urban areas, as detailed in Schedule 6, to:~~

- ~~(a) Provide a resilient, safe and healthy community, including through use of crime prevention through environmental design principles; and~~
- ~~(b) Ensure that the built form relates well to its surrounding natural environment, including by:
 - ~~(i) Reflecting natural features such as rivers, lakes, wetlands and topography; and~~
 - ~~(ii) Providing for ecological corridors in urban areas; and~~
 - ~~(iii) Protecting areas of indigenous biodiversity and habitat for indigenous fauna; and~~
 - ~~(iv) Encouraging use of low impact design techniques; and~~
 - ~~(v) Encouraging construction of warmer buildings; and~~~~
- ~~(c) Reduce risk from natural hazards, including by avoiding areas of significant risk; and~~
- ~~(d) Ensure good access and connectivity within and between communities; and~~
- ~~(e) Create a sense of identity, including by recognising features of heritage and cultural importance; and~~
- ~~(f) Create areas where people can live, work and play, including by:
 - ~~(i) Enabling a diverse range of housing, commercial, industrial and service activities; and~~~~

- (ii) *Enabling a diverse range of social and cultural opportunities.*

Policy 4.5.7 - Integrating infrastructure with land use

Achieve the strategic integration of infrastructure with land use, by:

- (a) *Recognising functional needs of infrastructure of regional or national importance; and*
- (b) *Designing infrastructure to take into account;*
 - (i) *Actual and reasonably foreseeable land use change; and*
 - (ii) *The current population and projected demographic changes; and*
 - (iii) *Actual and reasonably foreseeable change in supply of, and demand for, infrastructure services; and*
 - (iv) ~~Natural and physical~~ *Resource constraints; and*
 - (v) *Effects on the values of natural and physical resources; and*
 - (vi) *Co-dependence with other infrastructural services; and*
 - (vii) *The effects of climate change on the long term viability of that infrastructure; and*
- (c) *Managing urban growth in a coordinated manner to ensure;*
- (i) ~~Within areas that have sufficient infrastructure services capacity are provided; or~~
- (ii) ~~Where infrastructure services can be upgraded or extended efficiently and effectively; and~~
- ~~(d) Co-ordinating the design and development of infrastructure with the staging of land use change, including with:~~
 - ~~(i) Structural design and release of land for new urban development; or~~
 - ~~(ii) Structural redesign and redevelopment within existing urban areas.~~

Schedule 5

Delete Schedule 5

17 Natural Hazards (Objective 4.1, Policy 4.1.4, 4.1.6, 4.1.8) ⁶

- (a) The avoidance of natural hazards in the pRPS needs to be widened to avoid remedy or mitigation of natural hazards. This would be more consistent with case law and the RMA for a residual level of risk to be

⁶ Previously Objective 3.2, policies 3.2.5, 3.2.6, 3.2.8

acceptable, particularly in hazard prone areas such as the Queenstown Lakes District.

- (b) It will not be reasonable to require avoidance of natural hazards in all circumstances of use and development of resources. The use of a precautionary approach for identifying, assessing, and managing risks of natural hazards is appropriate to apply where probability is uncertain and consequences are likely significant or irreversible (not where such consequences are just potential).

Relief

- (c) Real Journeys seeks that Objective 4.1, Policy 4.1.4, 4.1.6, 4.1.8 be amended as follows:

Objective 4.1 Inappropriate risk that natural hazards pose to Otago's communities are minimised

Policy 4.1.4 Assessing activities for natural hazard risk

Assess activities in areas known to be subject to an identified ~~for~~ natural hazard risk, by considering:

- a) The natural hazard risk identified, including residual risk; and*
- b) Any measures to avoid, remedy or mitigate those risks, including relocation and recovery methods; and*
- c) The long term viability and affordability of those measures; and*
- d) Flow-on effects of the risk to other activities, individuals and communities; and*
- e) The availability of, and ability to provide, lifeline utilities, and essential and emergency services, during and after a natural hazard event.*

Policy 4.1.6 Avoiding increased natural hazard risk from inappropriate subdivision, use and development

Avoid, remedy or mitigate ~~increasing~~ increased natural hazard risk from inappropriate subdivision, use and development, including by:

- a) Avoiding activities that significantly increase risk, including displacement of risk off-site; and*
- b) Encouraging design that facilitates:
 - i. Recovery from natural hazard events; or*
 - ii. Relocation to areas of lower risk.**

Policy 4.1.8 Applying a precautionary approach

Where natural hazard ~~risk probability~~ is uncertain or unknown, but consequence is likely ~~potentially~~ significant or irreversible, apply a precautionary approach to identifying, assessing and managing that risk.

18 **Historic Heritage (Objective 5.2, policy 5.2.3)⁷**

- (a) Significant historic heritage of the Region should be managed to ensure that working historic heritage are not unnecessarily stagnated, and can continue to be used and enjoyed by people.
- (b) It is not reasonable to require that adverse effects be avoided for all historic heritage.

Relief

- (c) Real Journeys seeks that Objective 5.2 and policy 5.2.3 be amended as follows:

Objective 5.2: Significant historic heritage resources are recognised and contribute to the region's character and sense of identity

Policy 5.2.3 Managing historic heritage values

Manage historic heritage values to protect and enhance the values of places and areas of historic heritage from inappropriate development, by:

a) Recognising that some places or areas are known or strongly suspected of containing archaeological sites, wāhi tapu or wāhi taoka which could be of significant historic or cultural value; and

b) Applying these provisions immediately upon discovery of such hitherto unidentified archaeological sites or areas, wāhi tapu or wāhi taoka; and

c) Avoiding, remediating or mitigating adverse effects on those values which contribute to the area or place being of regional or national significance; and

~~d) Avoiding significant adverse effects on other values of areas and places of historic heritage; and~~

~~e) Assessing the significance of adverse effects on those values, as detailed in Schedule 3; and~~

~~f) Remediating, when adverse effects on other values cannot be avoided; and~~

~~g) Mitigating when adverse effects on other values cannot be avoided or remediated; and~~

h) Encouraging the integration of historic heritage values into new activities; and

i) Enabling adaptive reuse or upgrade of historic heritage places and areas where heritage values can be maintained.

⁷ Previous Objective 4.2, policy 4.2.3

19 **Activities in rural areas (Policy 5.3.1)⁸:**

- (a) The pORPS does not recognise and provide for the benefits of tourism, employment and recreation development within rural areas that contribute to the economy of the Region under Policy 5.3.1. This has the potential to significantly limit appropriate development and efficient use of rural land; and
- (b) Policy 5.3.1 is disproportionately weighted towards to the protection of rural land which is an outdated understanding of the diverse values of rural land and which is not supported by the purpose and principles of the Act. The protection of land for primary production is not a matter of national importance under section 6 or a matter to which particular regard is to be had in terms of section 7 of the Act.

Relief

- (c) Real Journeys seeks that Policy 5.3.1 be amended as follows:

Policy 5.3.1 - ~~Managing~~ Protecting for rural regionally significant industry activities from inappropriate subdivision, use and development

Manage activities in rural areas, to support the region's economy and communities, by:

- (a) *~~Enabling regionally significant industry activities, farming and other rural activities that support the rural economy; and~~*
- (b) *~~Minimising the loss of regionally significant soils highly valued for their versatility for primary production; and~~*
- (c) *~~Restricting the establishment of activities in rural areas that may lead to reverse sensitivity effects on regionally significant industry activities; and~~*
- (d) *~~Minimising~~ ~~Restricting~~ the subdivision of productive rural land into smaller lots that may result in inappropriate rural residential activities; and*
- (e) *~~Providing for other activities that have a functional need to locate in rural areas, including tourism and recreational activities that are of a nature and scale compatible with rural activities.~~*

Glossary terms

- 20 To reduce ambiguity and enable more efficient implementation of the pRPS, the following new definitions are requested in the Submission: Significant Infrastructure, Significant Community Facility, Urban, Regionally Significant Soil Resources, Regionally Significant Industry Activity, Hard mitigation measures.

⁸ Previously Policy 4.3.1

- 21 The definition of these terms will assist the interpretation and clarification of future application of the pRPS and will reduce the possibility of unnecessary litigation.

Relief

- 22 Real Journeys seeks the following relief for defined terms:

Glossary- define Significant Infrastructure- include lifeline utilities and any infrastructure to be considered of regional or national significance

Glossary- define Significant Community Facility – include facilities that provide essential community services

Glossary- define Urban

Glossary – define or identify Regionally Significant Soil Resource- include all soil resources intended to be managed by the pRPS

Glossary- define Regionally Significant Industry Activity- include any activity associated with tourism, education, or primary production

Glossary – define hard Mitigation Measures

Further reasons for appeal

- 23 In addition to the matters set out above, the further reasons for the appeal are that the Decision of the ORC:
- (a) Will not promote the sustainable management of resources and is contrary to Part 2 of the Act;
 - (b) Is not necessary to avoid, remedy or mitigate adverse effects on the environment;
 - (c) Does not represent the most appropriate means of exercising the Respondent's functions, having regard to the efficiency and effectiveness of other available means and therefore is inappropriate in terms of section 32 and other provisions of the Act.

Further relief sought

- 24 In addition to the specific relief set out above, Real Journeys seeks the following relief:
- (a) To amend the pORPS in accordance with the original Submission of Real Journeys, in respect of the provisions appealed;
 - (b) Any other consequential, necessary, or alternative relief as the Court thinks fit in order to address the matters raised in this appeal.

Attached documents

25 The following documents are attached to this notice:

- (a) A copy of the Submission made by Real Journeys; **(Schedule A)**
- (b) A copy of the decisions of the ORC on the pORPS; **(Schedule B)** and
- (c) A list of names and addresses of persons to be served with a copy of this notice. **(Schedule C)**

Dated this 09th day of December 2016



Maree Baker-Galloway/Rosie Hill
Counsel for the Appellant

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Advice to recipients of copy of notice

How to become party to proceedings

You may be a party to the appeal if,—

- (a) within 15 working days after the period for lodging a notice of appeal ends, you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (b) within 20 working days after the period for lodging a notice of appeal ends, you serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the Appellant's submission and further submission or the decisions appealed. These documents may be obtained, on request, from the Appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Christchurch.

Schedule A- Appellant's Submission

Schedule B- copy of the Respondent's decision

Schedule C- List of names of persons to be served with