

**Queenstown Lakes District Proposed District Plan**

**Section 32 Evaluation**

**Variation to Proposed District Plan**

**For:**

**Variation to Utilities Chapter 30**

**Variation to the definition of Regionally Significant Infrastructure**

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## **1. EXECUTIVE SUMMARY**

- 1.1. This variation address four issues in relation to the utilities aspect of Chapter 30 Energy and Utilities of the Proposed District Plan ('PDP'). It seeks to inset a new objective and associated policies and rules to manage natural hazard mitigation works, to give effect to the partially operative Otago Regional Policy Statement. It seeks to insert permitted activity rules for activities identified as utilities in the definition of utilities, but not otherwise provided for in the utilities rules. It also seeks to clarify which rules apply in situations where the rules in Chapter 30 and other chapters (Chapter 17 Airports as it relates to airport activities, and Chapter 29 Transport as it relates to roads) apply to the same activity.
- 1.2. It is also proposed to vary the definition of Regionally Significant Infrastructure (**RSI**). The concept and related definition of RSI evolved as a response to and as part of the PDP having regard to the Proposed Regional Policy Statement for Otago 2015. PRPS Policy 4.3.2 identified a range of infrastructure activities that were of national or regional significance. Through appeals on the PRPS 2015, Policy 4.3.2 was amended to include 'municipal infrastructure'. The Environment Court made consent orders in July 2018 to amend Policy 4.3.2 and it is considered appropriate to ensure that the PDP definition of RSI is consistent with, and gives effect to PRPS Policy 4.3.2 where relevant to the Queenstown Lakes District.
- 1.3. This report assesses the variation in accordance with section 32 of the Resource Management Act 1991 ('the Act' or 'the RMA'). The new objective and the purposes of the other aspects of the variation are considered to be an appropriate way to achieve the sustainable management purpose of the Act as they would enable utilities that provide for the wellbeing and health and safety of the community while appropriately managing adverse effects. The policies and rules proposed are considered to be the most appropriate way to achieve the objective and purposes of the variation as the costs of the implementation of the provisions are outweighed by the benefits that are expected, and they will be effective at achieving the outcomes sought by the variation.

## **2. INTRODUCTION**

- 2.1. This report fulfils the requirements of Section 32 of the Act, which requires the objective(s) of proposals to be examined for their appropriateness in achieving the purpose of the Act, and the policies and methods of those proposals to be examined for their costs, benefits, efficiency, effectiveness and risk in achieving the objectives.
- 2.2. This is a variation to the utilities aspects of Chapter 30 Energy and Utilities of the PDP. The variation proposes three key changes to the chapter:

- a) Additional rules in Chapter 30 for utilities that are identified in the definition of utility but are not otherwise provided for in the rules of chapter 30, currently these activities would require resource consent as a discretionary activity pursuant to Rule 30.5.1.8 of Chapter 30 (Decisions version).
  - b) Changes to the 'Interpreting and Applying the Rules' section of Chapter 30, to clarify which rules apply in a situation where rules in Chapter 30 and another chapter apply to an activity. It is considered appropriate that other rules in the PDP that manage highly valued resources are able to be applied. These are Protected Trees (Chapter 32), Indigenous Vegetation and Biodiversity (Chapter 33) and a new Stage 3 overlay and district wide Chapter 39 (Wāhi Tūpuna ). Chapter 35 (Temporary Activities and Relocated Buildings) and Chapter 36 (Noise) should also be able to be applicable to utilities.
  - c) An additional objective and associated policies for the management of natural hazards mitigation structures and works, in order to better give effect to the partially operative Otago Regional Policy Statement ('**PORPS**').
- 2.3. The changes identified under (a) and (b) above would not introduce any new objectives or change any existing objectives. The purpose of these aspects of the variation is to enable activities identified as utilities while appropriately controlling their effects, and to clearly set out which provisions will take precedence when rules from Chapter 30 and another chapter apply to the same activity.
- 2.4. The proposed objective for (c) above is as follows:
- Natural hazard mitigation structures and works that are required to reduce risk to people, property, and the community are enabled in a manner that minimises adverse effects on the environment.*
- 2.5. As well as the objective identified above, also proposed in the changes associated with (c) is additional text in the introduction to the chapter on natural hazard mitigation structures and works, five policies that provide direction on how the objective is to be achieved, a permitted rule associated with the maintenance of existing natural hazard mitigation works, structure and services, and a discretionary activity rule for natural hazard mitigation structures that do not comply with the permitted activity standards.
- 2.6. To explain the proposed changes associated with (a) further, the additional rules proposed are permitted activity rules for the following activities:
- Pipes and incidental structures and equipment for transmitting and distributing gas;
  - Pipes and incidental structures and equipment for the supply and drainage of water or wastewater;
  - Water and irrigation races, drains, channels, pipes and incidental structures and equipment;

- Stormwater, including provision for stormwater retention/detention ponds and wetlands;
  - Structures, facilities, plant, equipment and associated works for monitoring and observation of natural hazards;
  - Maintenance, reinstatement, repair or replacement of existing structures, facilities, plant, equipment and associated works for natural hazard mitigation.
  - Underground pipes and incidental structures and equipment for the conveyance of stormwater
  - Water, wastewater and stormwater pump stations
- 2.7. Associated with the above permitted activities, a controlled activity rule is proposed for stormwater detention/retention ponds or stormwater wetlands, and a restricted discretionary rule is proposed for aboveground pipelines and attached ancillary structures for the conveyance of water, wastewater, stormwater and gas.
- 2.8. These activities are encapsulated as utilities in the definition of ‘utilities’ in Chapter 2 of the PDP, and the provisions of Chapter 30 therefore apply to them. However, because they are not otherwise identified in the rule, these utilities currently require a discretionary activity consent under the ‘catch-all’ discretionary rule on Chapter 30 (Rule 30.5.1.8).
- 2.9. To explain (b) further, changes are proposed to Rules 30.3.3.1 and 30.3.3.3 in the ‘Interpreting and Applying the Rules’ section of Chapter 30, to clarify that the rules in the following chapters, in addition to the two chapters already listed in the rule, will also apply as well as the rules in Chapter 30:
- Protected Trees (Chapter 32)
  - Indigenous Vegetation and Biodiversity (Chapter 33)
  - Temporary activities and relocated buildings (Chapter 35)
  - Noise (Chapter 36)
  - Wāhi Tūpuna (Chapter 39)
- 2.10. In addition, two new rules are proposed to be added to this section to clarify that Chapter 30 does not apply to the construction, maintenance of roads, or the transport network, or to Airport Activities in the Airport Zone, even though roads and airports are a utility by virtue of reference in the definition to s166 of the RMA.
- 2.11. Chapter 30 was notified as part of Stage 1 of the District Plan Review and is currently subject to appeal. There is no scope within the appeals to address the amendments raised by this variation. Environment Court assisted mediation was held (PDP Stage 1, Topic 17) on Chapter 30 in August 2019 and agreement was reached such that the appeals on Chapter 30 are not required to be determined by the Environment Court through a hearing. This variation has taken into account the provisions subject to valid points of

appeal and has been designed so that those respective appeals are not materially affected. The amendments to Rules 30.3.3.1 and 30.3.3.3 clarify the relationship with utilities and other parts of the PDP.

- 2.12. It is also proposed to vary the definition of Regionally Significant Infrastructure (**RSI**) in Chapter 2 of the PDP, which includes the addition of a definition for municipal infrastructure. This is to make sure the PDP definition of RSI is consistent with, and gives effect to the Proposed Regional Policy Statement Policy 4.3.2 as amended by Environment Court consent orders made in July 2018, where relevant to the Queenstown Lakes District.

### **3. STRUCTURE OF THE REPORT**

- 3.1. This report provides an analysis of the policy response proposed by the variation as required by s32 of the RMA, using the following sections:

- a) **Consultation** undertaken, including engagement with iwi authorities on the proposal.
- b) An overview of the applicable **Statutory Policy Context**.
- c) A description of the **Resource Management Issues** being addressed by the proposal.
- d) An assessment of the **scale and significance** of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposal.
- e) An **Evaluation** against s32 of the RMA, including
  - Whether the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA (Section 32(1)(a)).
  - Whether the provisions (policies and methods) are the most appropriate way to achieve the objectives of the proposal (Section 32(1)(b)), including:
    - (i) identifying other reasonably practicable options for achieving the objectives
    - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives, including consideration of risk of acting or not acting, and
    - (iii) summarising the reasons for deciding on the provisions.

### **4. CONSULTATION**

- 4.1. The proposed provisions have been provided to Aukaha. Aukaha, who also provide advice on behalf of Te Ao Marama, have confirmed that they have no comment or issue in relation to this proposal. There is therefore no need to address any iwi feedback in this report.

4.2. The proposed provisions have also been sent to, and discussed with, Otago Regional Council ('ORC') staff. ORC provided feedback on the matters relating to natural hazard mitigation works and this feedback has been reflected in this evaluation and the provisions. Informal consultation was also held with Queenstown Airport Corporation in relation to the relationship with Chapter 17 Airports and Rule 30.3.3.3.

**5. STATUTORY POLICY CONTEXT**

5.1. The relevant requirements of the RMA, the Local Government Act 2002, and the two iwi management plans that apply in the District<sup>1</sup> have been given appropriate regard in the preparation of this proposal. There are no relevant National Policy Statements or National Environmental Standards.

5.2. The relevant provisions of the Otago Regional Policy Statement, both the PORPS and 1998 volume, and at the time of preparation of this s32, the agreed version of Chapter 3 as agreed by the parties and before the Environment Court for making consent orders. This proposal is required to give effect to the partially operative provisions of the RPS (both 2019 and 1998 volumes) and have regard to the proposed provisions (Chapter 3). There are a number of provisions in the PORPS that are pertinent to utilities and the natural hazards mitigation measures aspect of the proposal. These provisions are set out in the table below. In summary, they seek to ensure that hard protection structures are only used for hazard mitigation where there are no other reasonably practical options to reduce risk, that the effects of the hazard mitigation works are appropriately managed, and that the functional needs of hazard mitigation measures are protected.

<b>PORPS 2019 Reference</b>	<b>Provisions that are particularly relevant to utilities and natural hazard management</b>
<b>Objective 4.1</b>	<b>Risks that natural hazards poses to Otago's communities are minimised.</b>
Policy 4.1.10 Mitigating natural hazards	Give preference to risk management approaches that reduce the need for hard protection structures or similar engineering interventions, and provide for hard protection structures only when all of the following apply: <ul style="list-style-type: none"> <li>a) Those measures are essential to reduce risk to a level the community is able to tolerate;</li> <li>b) There are no reasonable alternatives that result in reducing the risk exposure;</li> <li>c) It would not result in an increase in risk to people and communities, including displacement of risk off-site;</li> <li>d) The adverse effects can be adequately managed;</li> </ul>

<sup>1</sup> *The Cry of the People, Te Tangi a Tauira: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (MNRMP 2008), and Kāi Tahu ki Otago Natural Resource Management Plan 2005 (KTKO NRMP 2005).*

	e) The mitigation is viable in the reasonably foreseeable long term.
Policy 4.1.11 Hard protection structures	Enable the location of hard protection structures or similar engineering interventions on public land only when either or both of the following apply: a) There is significant public or environmental benefit in doing so; b) The work relates to the functioning ability of a lifeline utility, or a facility for essential or emergency services.
Policy 4.1.13 Hazard mitigation measures, lifeline utilities, and essential and emergency services	Protect the functional needs of hazard mitigation measures, lifeline utilities, and essential or emergency services, including by all of the following: a) Restricting the establishment of other activities that may result in reverse sensitivity effects on those measures, utilities or services; b) Avoiding significant adverse effects on those measures, utilities or services; c) Avoiding, remedying or mitigating other adverse effects on those measures, utilities or services; d) Maintaining access to those measures, utilities or services for maintenance and operational purposes; e) Managing other activities in a way that does not restrict the ability of those mitigation measures, utilities or services to continue functioning.

<b>PORPS 2019 Reference</b>	<b>Provisions that are particularly relevant to the PDP definition of RSI</b>
<b>Objective 4.3</b>	<b>Infrastructure is managed and developed in a sustainable way</b>
Policy 4.3.2 Nationally and regionally significant infrastructure	Recognise the national and regional significance of all of the following infrastructure: a) Renewable electricity generation activities, where they supply the National Grid or local distribution network; b) National Grid; c) Electricity sub-transmission infrastructure <sup>2</sup> ; d) Telecommunication and radiocommunication facilities; e) Roads classified as being of national or regional importance; f) Ports and airports and associated navigation infrastructure; g) Defence facilities; h) Rail infrastructure; i) Municipal infrastructure.
Definition Municipal infrastructure	Infrastructure for: a) Conveyance of untreated water from source to, and including, the point of its treatment to potable standard for an urban environment (see below), but excluding its distribution within that urban environment; b) Treatment of wastewater from a reticulated system in an urban environment (see below) and conveyance for its disposal, but excluding its pre-treatment collection within that urban environment;

<sup>2</sup> Limb C has been addressed through appeals on the PDP. Limbs f and h are not relevant to Queenstown Lakes District.



	<p>c) Treatment of stormwater from a reticulated system in an urban environment (see below) and conveyance for its disposal, but excluding its pre-treatment collection within that urban environment.</p> <p>Urban Environment means:</p> <p>a) Dunedin, Queenstown, Oamaru and any other urban area within Otago that qualifies as an urban environment as defined by the National Policy Statement on Urban Development Capacity 2016.</p> <p>b) An area of land containing, or intended to contain, a concentrated settlement of 10,000 people or more and any associated business land, irrespective of local authority or statistical boundaries).</p>
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**Proposed District Plan (PDP)**

5.3. The statutory policy document of most relevance to the proposal, with the RPS, is the PDP. The following objectives and policies of the PDP are relevant and have been given due regard in the development of proposal:

**Strategic Direction Chapter 3**

<b>Plan Reference</b>	<b>Provision</b>
SO 3.2.1	The development of a prosperous, resilient and equitable economy in the District
SO 3.2.1.9	Infrastructure in the District that is operated, maintained, developed and upgraded efficiently and effectively to meet community needs and to maintain the quality of the environment
SO 3.2.4	The distinctive natural environments and ecosystems of the District are protected.
SO 3.2.5	The retention of the District's distinctive landscapes
SO 3.2.5.1	The landscape and visual amenity values and the natural character of Outstanding Natural Landscapes and Outstanding Natural Features are protected from adverse effects of subdivision, use and development that are more than minor and/or not temporary in duration.
SO 3.2.5.2	The rural character and visual amenity values in identified Rural Character Landscapes are maintained or enhanced by directing new subdivision, use or development to occur in those areas that have the potential to absorb change without materially detracting from those values.
SO 3.2.6	The District's residents and communities are able to provide for their social, cultural and economic wellbeing and their health and safety
SP 3.3.5	Recognise that Queenstown Airport makes an important contribution to the prosperity and resilience of the District. (relevant to S.O. 3.2.1.3)
SP 3.3.12	Encourage economic activity to adapt to and recognise opportunities and risks associated with climate change.

SP 3.3.16	Identify heritage items and ensure they are protected from inappropriate development. (relevant to S.O. 3.2.2.1, and 3.2.3.1)
SP 3.3.18	Protect SNAs from significant adverse effects and ensure enhanced indigenous biodiversity outcomes to the extent that other adverse effects on SNAs cannot be avoided or remedied. (relevant to S.O. 3.2.1.7, 3.2.1.8, 3.2.4.1, 3.2.1.2, 3.2.4.3 and 3.2.4.4)
SP 3.3.19	Manage subdivision and / or development that may have adverse effects on the natural character and nature conservation values of the District's lakes, rivers, wetlands and their beds and margins so that their life-supporting capacity and natural character is maintained or enhanced. (relevant to S.O. 3.2.1.8, 3.2.4.1, 3.2.4.3, 3.2.4.4, 3.2.5.1 and 3.2.5.2)
SP 3.3.25	Provide for non-residential development with a functional need to locate in the rural environment, including regionally significant infrastructure where applicable, through a planning framework that recognises its locational constraints, while ensuring maintenance and enhancement of the rural environment. (relevant to S.O. 3.2.1.8, 3.2.1.9 3.2.5.1 and 3.2.5.2)

### Energy and Utilities Chapter 30

Plan Reference	Provision
<b>Objective 30.2.5</b>	<b>The growth and development of the District is supported by utilities that are able to operate effectively and efficiently</b>
<b>Objective 30.2.6</b>	<b>The establishment, continued operation and maintenance of utilities supports the well-being of the community</b>
Policy 30.2.6.1	Provide for the need for maintenance or upgrading of utilities including regionally significant infrastructure to ensure its on-going viability and efficiency subject to managing adverse effects on the environment consistent with the objectives and policies in Chapters 3, 4, 5 and 6.
Policy 30.2.6.2	When considering the effects of proposed utility developments consideration must be given to alternatives, and also to how adverse effects will be managed through the route, site and method selection process, while taking into account the locational, technical and operational requirements of the utility and the benefits associated with the utility.
Policy 30.2.6.3	Ensure that the adverse effects of utilities on the environment are managed while taking into account the positive social, economic, cultural and environmental benefits that utilities provide, including ...
<b>Objective 30.2.7</b>	<b>The adverse effects of utilities on the surrounding environments are avoided or minimised</b>
Policy 30.2.7.1	Manage the adverse effects of utilities on the environment by: <ul style="list-style-type: none"> <li>a. avoiding their location on sensitive sites, including heritage and special character areas, Outstanding Natural Landscapes and Outstanding Natural Features, and skylines and ridgelines and where avoidance is not practicable, avoid significant adverse effects and minimise other adverse effects on those sites, areas, landscapes or features; ...</li> </ul>

### Earthworks Chapter 25

Plan Reference	Provisions (paraphrased) as they relate specifically to Issue 3 Natural Hazard Mitigation Activities
Objective 25.2.1	where it refers in particular to earthworks being undertaken in a manner that protects people and communities.
Policy 25.2.1.2	which is to avoid inappropriate adverse effects and minimise other adverse effects, including limbs (a) protecting the values of ONL/F, and (g) which seeks to maintain public access along lakes and rivers.
Policy 25.2.1.3	which is to avoid where practicable, or remedy or mitigate adverse visual effects of earthworks on visually prominent slopes, natural landforms and ridgelines.
Policy 25.2.1.11	which is to ensure that earthworks minimise natural hazard risk to people, communities and property, in particular earthworks undertaken to facilitate land development or natural hazard mitigation.
Objective 25.2.2	which is to achieve the benefits of earthworks on social, cultural and economic wellbeing of people and communities.
Policy 25.2.2.1	which seeks to enable earthworks that are necessary to provide for people and communities wellbeing, having particular regard to the importance of minimising the risk of natural hazards (limb (c)).
Assessment Matter 25.8.9	includes four assessment matters relating to natural hazards including: (1) which is: whether the earthworks are necessary to avoid, remedy or mitigate the risk of any natural hazard.

In summary, in the context of this proposal, the policy intent of the PDP in relation to utilities is to provide for utilities while appropriately managing their effects, including effects on sensitive sites.

## 6. RESOURCE MANAGEMENT ISSUES

6.1. There are four key issues that this variation addresses. Each is explained in turn.

### Issue 1: Provision for utilities as defined

6.2. An unintended consequence may arise if the activities identified as utilities in the definition are not directly addressed by rules in chapter 30. The definition of utilities in Chapter 2 Definitions of the PDP includes a specific list of activities. Being defined as utilities, these activities will be subject to the provisions of Chapter 30. If a utility is not specifically identified in the rules in Chapter 30, it will require a resource consent as a discretionary activity due to the operation of a 'catch-all' rule for activities not otherwise identified (Rule 30.5.1.8). A review of the utilities specifically provided for in the Chapter 30

rules, compared to the activities defined as utilities in the definition in Chapter 2, suggests that there may be some unintended consequences where utilities are not otherwise listed and therefore will require a discretionary activity consent.

- 6.3. The identified matters relate to the conveyance of gas, and the conveyance and storage of wastewater, water and stormwater.

#### **Issue 2: Provision for utilities subject to Part 2 of the RMA**

- 6.4. The second issue is the horizontal integration of the PDP in relation to other chapters and provisions. Generally, the structure of the PDP is that the rules in district wide chapters apply equally to the relative zone rules, except that a more specific district wide rule would take precedence over the more general, i.e. temporary activities. As part of recognising the socioeconomic benefits of energy and utilities Chapter 30 has a provision that establishes that the rules in Chapter 30 take precedence over other rules in the PDP, except for earthworks (Chapter 25) and Historic Heritage (Chapter 26) (Rule 30.3.3.3). It has been identified that there may be cause for confusion and misapplication of Rules 30.3.3.1 and 30.3.3.3. If this were the case, it may not be the most appropriate way to meet the objectives of the PDP, PORPS and Part 2 of the Act if the rules in Chapter 30 prevail over certain rules that manage Section 6 and 7 resources, where these resources are not otherwise managed in Chapter 30. The identified areas are protected trees (Chapter 32), indigenous vegetation and biodiversity (Chapter 33) and a new Stage 3 matter Wāhi Tūpuna (Chapter 39). The management of landscapes including ONF/L are encompassed within the Chapter 30 rule framework.
- 6.5. The inverse arises in relation to Queenstown and Wanaka Airports, which have their own zone and associated rule regime. The operation of Rule 30.3.3.3 in the 'Interpreting and Applying the Rules' section of Chapter 30 means that the more general rules in the utilities chapter take precedence over the more specific rules in the Airport Zone (Chapter 17), which would make some of the specific rules in the Airport Zone redundant, which is understood to not be the intention of the relationship between Chapter 30 and Chapter 17 as it relates to Queenstown and Wanaka airports, particularly where the more specific zone rules favour airport activities more so than the generic utilities rules.
- 6.6. Related to this matter is the need to avoid confusion with the more specific PDP provisions relating to other utilities. Roads and transport infrastructure is provided for in Chapter 29 Transport. However both are utilities as defined in the PDP and in section 166 of the Act.

### **Issue 3: Natural Hazard Mitigation Activities**

- 6.7. The third issue relates to adequate recognition in the PDP for the structures, facilities, plant, equipment and associated works including earthworks for the protection of the community from natural hazards. Natural hazard mitigation works is a utility as defined however there is little specific policy direction other than for utilities generally, including the functional need for utilities to locate in sensitive environments (i.e. PDP Policy 30.2.7.1).
- 6.8. Chapter 28 (Natural Hazards) primarily address natural hazards throughout the District in terms of the management of development and natural hazard risk. The policies in Chapter 28 addresses this through a policy framework that includes exploring the concepts of tolerable risk and significant risk in the context of a specific development proposal, plan change or variation. However with regard to natural hazard mitigation works as a stand-alone activity, is more confined to Policies 28.3.1.4 and 28.3.2.4 that respectively acknowledge the Council and Otago Regional Council's statutory function to undertake natural hazards works, and the latter gives effect to PORPS Policy 4.1.10 in relation to using natural features and buffers in preference to hard engineering solutions.
- 6.9. Chapter 25 (Earthworks) contains a suite of provisions that provide for the enablement and protection from natural hazard mitigation works. However, these are self-limiting to earthworks associated with natural hazard mitigation and does not encompass all natural hazard mitigation works and structures, i.e. where natural hazard mitigation does not require earthworks.
- 6.10. It is considered that Chapter 30 could provide better direction for natural hazard mitigation activities, particularly where there is a functional need to locate within a sensitive environment.

### **Issue 4: Giving effect to Partially Operative Policy 4.3.2**

- 6.11. Regionally Significant Infrastructure (**RSI**) is not defined in the POPRS 2019, however the concept and related definition of RSI in the PDP evolved through submissions on Stage 1 of the PDP as a response to and as part of the PDP having regard to the Proposed Regional Policy Statement for Otago 2015 where Policy 4.3.2 identifies a range of infrastructure activities that are of national or regional significance in the context of Otago. Through appeals on the PRPS 2015, Policy 4.3.2 was amended to include 'municipal infrastructure'. The Environment Court made consent orders in July 2018 to amend Policy 4.3.2. The PDP refers to RSI in the policy framework and the definition of RSI was introduced into the decisions version of the PDP in May 2018. As a result of the timing between these appeals on the PRPS 2015 and the decisions on Stage 1 of the PDP, the definition of RSI in the PDP and Policy 4.3.2 of the PORPS 2019 are

not consistent. It is considered appropriate to ensure that the PDP definition of RSI is consistent with PORPS Policy 4.3.2, but on the basis that it is relevant to the Queenstown Lakes District.

6.12. The definition of RSI in the PDP (decisions version) is:

Means:

- a. renewable electricity generation activities undertaken by an electricity operator; and
- b. the national grid; and
- c. telecommunication and radio communication facilities; and
- d. state highways; and
- e. Queenstown and Wanaka airports and associated navigation infrastructure.

6.13. As set out above, Policy 4.3.2 of the PORPS 2019 and definition of municipal infrastructure is:

PORPS Reference	Provisions that are particularly relevant to the PDP definition of RSI
<b>Objective 4.3</b>	<b>Infrastructure is managed and developed in a sustainable way</b>
Policy 4.3.2  Nationally and regionally significant infrastructure	Recognise the national and regional significance of all of the following infrastructure: a) Renewable electricity generation activities, where they supply the National Grid or local distribution network; b) National Grid; c) Electricity sub-transmission infrastructure; d) Telecommunication and radiocommunication facilities; e) Roads classified as being of national or regional importance; f) Ports and airports and associated navigation infrastructure; g) Defence facilities; h) Rail infrastructure; i) Municipal infrastructure.
Definition  Municipal infrastructure	Infrastructure for: a) Conveyance of untreated water from source to, and including, the point of its treatment to potable standard for an urban environment (see below), but excluding its distribution within that urban environment; b) Treatment of wastewater from a reticulated system in an urban environment (see below) and conveyance for its disposal, but excluding its pre-treatment collection within that urban environment; c) Treatment of stormwater from a reticulated system in an urban environment (see below) and conveyance for its disposal, but excluding its pre-treatment collection within that urban environment.  Urban Environment means: a) Dunedin, Queenstown, Oamaru and any other urban area within Otago that qualifies as an urban environment as defined by the National Policy Statement on Urban Development Capacity 2016. b) An area of land containing, or intended to contain, a concentrated settlement of 10,000 people or more and any associated business land, irrespective of local authority or statistical boundaries).

## **7. SCALE AND SIGNIFICANCE EVALUATION**

- 7.1. The level of detailed analysis in this report is **low to moderate**, to reflect the scale and significance of the effects of the implementation of the proposed provisions. The proposed provisions would apply to a limited sector of the community, being utility providers. The implementation of the provisions would largely have positive effects, in that they would improve clarity in the operation of the Chapter and enable utilities that have not previously been enabled. The changes to control natural hazards mitigation works would implement the PORPS, a document that has been through the Schedule 1 assessment process and the approach considered to be appropriate.

## **8. EVALUATION OF PROPOSED OBJECTIVES**

- 8.1. Section 32(1)(a) requires an examination of the extent to which the proposed objectives are the most appropriate way to achieve the purpose of the Act. Where there are no new objectives proposed, an examination of the extent to which the purpose of the proposal is the most appropriate way to achieve the purpose of the Act is required (s32(6)).

### **Issue 1: Provision for utilities as defined**

- 8.2. The purpose of part of this variation is to enable activities identified as utilities while appropriately controlling their effects. Utilities provide an important service to the community and allow a community to provide for its wellbeing and health and safety, and in this way enabling utilities in the PDP is consistent with the sustainable management purpose of the RMA. The requirement to manage the effects of utilities is also consistent with the sustainable management purpose of the RMA, which requires effects of activities to be avoided, remedied and mitigated.
- 8.3. Aligning the matters identified in the definition of Utilities in Chapter 2 of the PDP achieves Objectives 30.2.5 and 30.2.6 of the PDP. This proposal is considered to be the most appropriate way to achieve the purpose of the RMA.

### **Issue 2: Provision for utilities subject to Part 2 of the RMA**

- 8.4. The purpose of part of this variation is to clearly set out which provisions will take precedence when rules from Chapter 30 and another chapter apply to the same activity. This will allow for sustainable management of natural and physical resources by ensuring the unambiguous application of the PDP to utilities, and the appropriate management of adverse effects of utilities by the application of the appropriate set of rules from the appropriate chapter of the PDP. This allows for appropriate regard to

be had to the different matters identified in Part 2 of the RMA, for example, to ensure that the rules controlling matters of national importance identified in section 6 of the RMA, such as the protection of Significant Natural Areas, including those areas that are significant in terms of meeting the criteria in Policy 33.2.1.8.

- 8.5. This proposal achieves objectives SO 3.2.4 and 30.2.7 of the PDP. This proposal is considered to be the most appropriate way to achieve the purpose of the RMA.

### **Issue 3: Natural Hazard Mitigation Activities**

- 8.6. The new objective proposed by this variation is:

*Natural hazard mitigation structures and works that are required to reduce risk to people, property, and the community are enabled in a manner that minimises adverse effects on the environment.*

- 8.7. The wellbeing and health and safety of people and communities is a key aspect of the sustainable management purpose of the RMA, and this objective would promote the wellbeing and health and safety of communities by allowing for natural hazard risk reduction through physical works. The requirement to minimise adverse effects of the works is consistent with the aspect of sustainable management that required adverse effects to be avoided, and if avoidance is not practicable, effects are minimised. The management of significant risk from natural hazards is a matter of national importance that is to be recognised and provided for when achieving the sustainable management purpose of the RMA (s6(h)). This objective would allow for the management of significant risk through mitigation structures that reduce risk.
- 8.8. The enablement of structures and works that are *required* to reduce risk gives effect to the requirement of the PORPS that only works essential to reduce risk, where there is no other reasonably practicable option, should be allowed.
- 8.9. The proposed objective is considered to be the most appropriate way to achieve the purpose of the RMA in the context of the requirement to give effect to the PORPS. While an individual policy on the functional need for natural hazard mitigation activities to locate within sensitive environment could have been introduced under PDP Objective 30.2.7, Council consider it more appropriate to provide a stand-alone objective. Objective 30.2.7 was also subject to appeal and it is preferred to not interfere with that appeal if an appropriate and practicable alternative is available.



**Issue 4: Giving effect to Partially Operative RPS Policy 4.3.2**

8.10. The proposal seeks to ensure the PDP gives effect to the PORPS 2019 through provision for those utilities that are identified in the PORPS 2019 as RSI, as it relates to the Queenstown Lakes District. This proposal is considered the most appropriate way to give effect to PDP Objectives 30.2.5 and 30.2.6, and PORPS 2019 Objective 4.3. This proposal is considered to be the most appropriate way to achieve the purpose of the RMA.

**9. EVALUATION OF THE PROPOSED PROVISIONS**

9.1. Section 32(1)(b) of the Act requires an assessment of whether the proposed provisions (policies and methods) are the most appropriate way to achieve the objective or purpose of the proposal. This assessment must:

- identify other reasonably practicable options for achieving the objectives
- assess the efficiency and effectiveness of the provisions in achieving the objectives, including consideration of the benefits and costs anticipated from the implementation of the provisions, and the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.
- summarise the reasons for deciding on the provisions

**Reasonably practicable options**

**Issue 1: Provision for utilities as defined**

Option	Achieves objective?
1. Status quo – no change to discretionary ‘catch-all’ rule.	This would not achieve the purpose as it would not enable the utilities that are currently caught by the ‘catch-all’ rule.
2. Change the activity status of the ‘catch-all’ rule to permitted.	This would partly achieve the objective as it would enable all utilities. However, permitted activity status is not appropriate for all utilities, and the permitted activity standards are not able to control the full range of effects that might be expected from all types of utilities.
3. Add permitted activity rules for utilities identified in the definition.	Specifying particular utilities that are appropriate as a permitted activity would achieve the objective of enabling utilities. It would also allow effects to be appropriately controlled by matching the level of control provided by the permitted activity standards to the type of utility permitted, and allow utilities with more

	significant effects to be managed through the resource consent process.
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- 9.2. Having considered these options, Option 3 is the preferred option because it is the most appropriate way to achieve the purpose of the variation and the relevant objectives of the PDP.

**Issue 2: Provision for utilities subject to Part 2 of the RMA**

Option	Achieves objective?
1. Status quo – existing Rule 30.3.3.3	This would not achieve the purpose of the variation as issues of precedence would remain for some of the plan chapters.
2. Amend Rules 30.3.3.1 and 30.3.3.3	This would address the purpose of the variation as it would allow the interaction of specific chapters with Chapter 30 to be considered and clarity provided through specific references added to Rule 30.3.3.3
3. Amend the definition of Utilities	This may achieve the purpose of the variation but is also likely to have unintended consequences. The utilities definition is very specific and changes to it affect the way the rules in Chapter 30 and other chapters apply. There is no ‘quick fix’ resulting from changing the definition and a high risk of unintended consequences.

- 9.3. Having considered these options, Option 2 is the preferred option because it is the most appropriate way to achieve the purpose of the variation and the relevant objectives of the PDP.

**Issue 3: Natural Hazard Mitigation Activities**

- 9.4. The following table identifies other reasonably practicable options for achieving the objective,

*Natural hazard mitigation structures and works that are required to reduce risk to people, property, and the community are enabled in a manner that minimises adverse effects on the environment.*

Option	Achieves objective?
1. Status quo – no new policies or rules	This option would not achieve the objective as there would be no provisions to implement it.
2. Policies and a permitted + discretionary rule framework	This option would achieve the objective as the policies would provide direction on how the objective is to be achieved, a permitted activity rule would enable some works, and a

	discretionary rule would ensure the policies are given consideration in the assessment of resource consent applications, including the option of declining applications where the policy tests of 'essential' and 'avoiding' significant effects are not met.
3. Policies and a permitted + restricted discretionary rule framework	This option would achieve the objective, but not with as much certainty as option 2. While restricted discretionary activity status can be seen as more enabling than discretionary, it puts less emphasis on the ability to decline application that do not satisfy the policy tests of 'essential' and 'avoiding' significant effects.

- 9.5. Having considered these options, Option 2 is the preferred option because it is the most appropriate way to achieve the purpose of the variation and the relevant objectives of the PDP.

#### **Issue 4: Giving effect to Partially Operative Policy 4.3.2**

- 9.6. The following table identifies other reasonably practicable options for achieving the objective.

<b>Option</b>	<b>Achieves objective?</b>
1. Status quo – do not amend definition	This option would not achieve Objective 4.3 of the PORPS 2019 because the PDP would not give effect through the inclusion of municipal infrastructure
2. Replicate PORPS 2019 Policy 4.3.2 as a definition into the PDP.	This option would achieve Objective 4.3, however the corresponding PORPS 2019 definition of municipal infrastructure is very broad and generic because it is needs to be relevant to the 5 local authorities in the Otago region, and the definition derived from what is a 'urban environment' as defined in the National Policy Statement Urban Development Capacity 2016 is not considered to be the most appropriate for the Queenstown Lakes District.
3. Replicate PORPS 2019 Policy 4.3.2 as a definition into the PDP with additional amendments that are tailored to the Queenstown Lakes District.	This option would achieve the objective, but instead of replicating the same definition of 'municipal infrastructure' as identified in the PORPS 2019, which is generic and potentially vague as it relates to the implementation of a specific district plan in an individual local authority. The definition utilised for the PDP could be more specific as it relates to the local authority who are

	primarily responsible for the provision of municipal infrastructure.
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- 9.7. Having considered these options, Option 3 is the preferred option because it is the most appropriate way to achieve the purpose of the variation and the relevant objectives of the PDP.

**Efficiency and effectiveness**

9.8. The following tables consider the efficiency and effectiveness of the provisions proposed to achieve the new objective and the other two purposes on the variation.

**Issue 1: Provision for utilities as defined**

<b>Purpose of the proposal: to enable activities identified as utilities while appropriately controlling their effects.</b>			
<b>Provisions</b>	<b>Costs</b>	<b>Benefits</b>	<b>Efficiency &amp; Effectiveness</b>
<p>Permitted activity rules for utilities associated with:</p> <p>Gas; drainage of water and wastewater; water and irrigation; natural hazard monitoring; maintenance of natural hazards mitigation works; stormwater; 3-waters pump stations</p>	<p>There would be an environmental and social cost of enabling these utilities, as they can have adverse visual and amenity effects. This cost is potentially high, but is considered to be low in this case due to the permitted activity standards that these utilities would need to comply with, which control setback from boundaries and height, and size of buildings in ONL and ONF areas.</p>	<p>A benefit of the implementation of these provisions would be lower compliance costs for providers of these specific utilities, which currently require a discretionary activity consent. This benefit is considered to be high in that it is likely to reduce the need for resource consents for activities with low or no adverse effects.</p> <p>There is a social and economic benefit from enabling some utilities associated with community services such as gas, water and sewage, and natural hazards monitoring and mitigation, as it makes it easier for these utilities to establish and be maintained. This benefit is considered to be medium.</p> <p>Notwithstanding that these activities are enabled, the PDP still requires management of effects through the application of other rules, including those identified in Rule 30.3.3.3.</p>	<p>The provisions are considered to be efficient as the benefits of the implementation of the provisions are considered to outweigh the costs.</p> <p>The provisions are considered to be effective as they will enable the utilities identified while controlling their effect through the application of the permitted activity standards.</p> <p>Overall, the proposed provisions are considered to be the most appropriate way to achieve the purpose of the proposal.</p>

**Issue 2: Provision for utilities subject to Part 2 of the RMA**

<b>Purpose of the proposal: to clearly set out which provisions will take precedence when rules from Chapter 30 and another chapter apply to the same activity</b>			
<b>Provisions</b>	<b>Costs</b>	<b>Benefits</b>	<b>Efficiency &amp; Effectiveness</b>
<p>Additions to Rule 30.3.3.3, these chapters take precedence over Chapter 30:</p> <p>Airport Zone; Protected Trees; Indigenous Vegetation and Biodiversity; temporary activities; noise; Wāhi Tūpuna.</p> <p>New Rules 30.3.3.3(a)&amp;(b): Chapter 30 does not apply to roads or airport activities within Airport Zone.</p>	<p>The provisions clarify the application of the PDP rules in circumstances where rules in Chapter 30 and another chapter apply to the same activity. There are no new consent requirements.</p>	<p>A benefit of the implementation of the provisions would be reduced compliance costs for those operating airports within the airport zone, and those operating roads. Both these utilities have specific management regimes in other PDP chapters, and do not need to also be managed by Chapter 30. Clarifying this in Chapter 30 reduces the need for compliance with an additional chapter. This benefit is considered to be moderate.</p> <p>There would be an environmental and cultural benefit from the implementation of the rules as the specific management regimes developed for protected trees, indigenous vegetation and biodiversity, and wāhi tūpuna, would also apply alongside the provisions in Chapter 30. This would mean due regard would be given to any effects utilities would have on the values protected by these chapters. This benefit is considered to be moderate to high.</p>	<p>The provisions are considered to be efficient as they would achieve the objectives of the PDP and result in a moderate benefit, while having a low cost.</p> <p>The provisions are considered to be effective as they would achieve the purpose of the variation by providing clarity on which provisions apply when provisions in Chapter 30 and another chapter apply to the same activity.</p> <p>Overall, the provisions are considered to be the most appropriate way to achieve the purpose of the variation.</p>

**Issue 3: Natural Hazard Mitigation Activities**

<b>Natural hazard mitigation structures and works that are required to reduce risk to people, property, and the community are enabled in a manner that minimises adverse effects on the environment.</b>			
<b><i>Provisions</i></b>	<b><i>Costs</i></b>	<b><i>Benefits</i></b>	<b><i>Efficiency &amp; Effectiveness</i></b>
<p>Five new policies</p> <p>New discretionary rule for natural hazard mitigation structures and works that are not permitted</p>	<p>Compliance costs from the implementation of the provisions for those undertaking hazard mitigation works would remain largely the same, as the proposed discretionary activity status for the rule is the same as under the current rules (i.e. Rule 30.5.1.8). This cost is considered to be neutral.</p> <p>There would be an environmental and social cost of enabling hazard mitigation works, as these works can have adverse visual and amenity effects as well as the potential to transfer risk to other sites. This cost is potentially significant, but is considered to be low in this case due to the requirement in the policies that any works must be essential to reduce risk and there must be no reasonable alternative.</p> <p>There are not considered to be any cultural costs from implementing the provisions.</p>	<p>The implementation of the provisions would have a social and economic benefit because they would enable works that reduce risk from natural hazards to the community. Risk reduction reduces social and economic consequences to the community. This benefit is considered to be high.</p> <p>There would be an environmental benefit from the implementation of the provisions as they specifically provide for the assessment and management of the effects of hazard mitigation works. While these effects can be assessed under the current rule framework, having specific direction in the policies provides clarity on the factors that need to be considered in the assessment. This benefit is considered to be low.</p> <p>There are not considered to be any cultural benefits from implementing the proposal.</p> <p>The introduction of a suite of finer grained objective and provisions relating natural hazard mitigation activities, in particular recognising the functional need for works in sensitive environments and establishing policy guidance as</p>	<p>The provisions are considered to be efficient as they will achieve the objective at low-moderate environmental cost and high social and economic benefit.</p> <p>The provisions are considered to be effective because they will achieve the objective of enabling essential hazard mitigation works and structures in a manner that minimises adverse effects.</p> <p>Overall, the proposed provisions are considered to be the most appropriate for achieving the objective of the proposal.</p> <p>The five policies implement the objective which in turn will better give effect to the PORPS 2019 by way of each individual policy:</p> <ul style="list-style-type: none"> <li>• 30.2.9.1 That permits the repair and maintenance of natural hazard mitigation structures, facilities, and plant.</li> </ul>

		to seeking to avoid significant adverse effects, and then minimising effects if avoidance is not practicable is considered a substantial benefit to natural hazard mitigation works.	<ul style="list-style-type: none"> <li>• 30.2.9.2 Which provides for natural hazard mitigation structures and works subject to management of the environment.</li> <li>• 30.2.9.3 Which acknowledges the issue of the displacement of natural hazard risk off-site.</li> <li>• 30.2.9.4 Seeks that natural hazard mitigation structures and works result in no or low residual risk.</li> <li>• 30.2.9.5 That provides recognition of the functional need for natural hazard mitigation works including within sensitive environments.</li> </ul>
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**Issue 4: Giving effect to Partially Operative Policy 4.3.2**

<i><b>Provisions</b></i>	<i><b>Costs</b></i>	<i><b>Benefits</b></i>	<i><b>Efficiency &amp; Effectiveness</b></i>
Amendments to the definition of Regionally	Including municipal infrastructure as RSI provides these activities with potentially lower threshold for environmental protection, subject to the alternative policy framework flowing down from PORPS 2019 Policy 4.3.4. This is a potential environmental and social cost.	<p>Greater alignment between the PORPS 2019 and the PDP.</p> <p>The PDP would better give effect to the PORPS 2019 Policy suite under, and Objective 4.3 of the PORPS.</p>	The amendments and new definition will be effective at aligning utilities that are given national or regional importance at the level of the PDP.



<p>Significant Infrastructure</p> <p>Definition of municipal infrastructure</p>	<p>The definition of municipal infrastructure is limited to only that owned by Council but this is considered to be consistent with the intent of the PORPS 2019 definition.</p>	<p>Greater opportunities for Council’s infrastructure provider to leverage from the enabling provisions of the PORPS 2019 (i.e. Objective 4.3 and related policies), and any related provisions that of the PDP that flow from Objective 4.3 of the PORPS 2019.</p>	<p>The amendments are both efficient in that plan users would not need to resort to the PORPS or part 2 of the Act on the basis that the PDP definition of RSI is incomplete.</p>
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Section 32(c) of the RMA requires an assessment of the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions. It is considered that, in this case, the information is certain and sufficient, and there is no need to assess the risk of acting or not acting.

**Reasons for deciding on the provisions**

- 9.9. The proposed provisions are considered the most appropriate because:
- a) They are efficient and effective at achieving the objective and purposes of the variation.
  - b) The provisions are in accordance with the relevant Strategic Directions, Natural Hazards, and Energy and Utilities objectives and policies of the Proposed District Plan.
  - c) They are in accordance with the functions of territorial authorities in s31 of the RMA and the sustainable management purpose of Part 2 of the RMA.
  - d) The proposed provisions give effect to the POPRS.