

IN THE MATTER OF

The Resource Management Act 1991

AND

IN THE MATTER OF

**Queenstown Lakes District Plan review
Chapter 28 – Natural Hazards**

**EVIDENCE OF WARREN HANLEY
On Behalf of Otago Regional Council
DATED 6 MARCH 2017**

Introduction and Experience

1. My name is Warren Hanley. I have a Diploma in Resource Management. I have worked at the Otago Regional Council for fifteen years, including twelve years within the regulatory directorate of the Council; previously in the Resource Consents team and for the last four years in the role of Resource Planner – Liaison in the Policy team.
2. I have read the Queenstown Lakes District Planner's Section 42A recommending report (the report).
3. I am authorised to speak on behalf of Otago Regional Council.
4. Although this is not an Environment Court hearing, I have read and agree to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note for Expert Witnesses (2006). I have complied with it in the preparation of this evidence.

Scope of evidence

5. Over the last two years the Otago Regional Council has undertaken a review of the operative Regional Policy Statement for Otago. The development of the Proposed Regional Policy Statement for Otago (PRPS) has coincided with the commencement of a number of district plan reviews within Otago, including that for the Queenstown Lakes District. I will provide a summary of the PRPS development in respect to Natural Hazards, the current stage of the PRPS review and comment on the Queenstown Lakes District Council Planner's report.

Natural Hazard Management

6. The national importance placed on managing natural hazard risk has increased substantially since Otago's first RPS became operative. Since that time, international and national natural hazard events have highlighted a range of risk that communities can be exposed to. The lessons from these events have also highlighted the opportunities to better manage and reduce those risks by how we control the use and development of our natural resources.
7. From a regulatory point of view this includes:
 - keeping and making publicly available relevant, timely and quality natural hazard information
 - Developing appropriate planning responses to manage, and where necessary, avoid natural hazard risk; and
Represent Otago communities' tolerance to natural hazard risk and protect them from activities that would exceed that tolerance
8. The decision version of the PRPS, released on 1 October 2016, received a number of appeals, including appeals related to its natural hazard provisions. Queenstown Lakes District Council is a section 274 party to Dunedin City Council's appeal on certain aspects of the PRPS natural hazard provisions.
9. Otago Regional Council has begun mediation talk with appellants of the PRPS, including the Queenstown Lakes District Council. The mediation is expected to conclude before June 2017.

Section 42A report recommendations for Chapter 28

10. Overall, the Otago Regional Council is supportive of the direction of the report writer's recommendations.
11. The report writer correctly identifies that the PRPS and the Proposed District Plan (PDP) are both at different stages in their development, and I appreciate this creates a more complex situation for considering the alignment of both documents.
12. I would note that the PRPS is a document that has been developed by Otago communities for Otago, and while authored by ORC it must be given effect by all Otago local authorities as part of their responsibilities under the Resource Management Act 1991 (RMA).
13. The report addresses some questions to ORC which I will discuss below. Also appended to my evidence is a table containing ORC's comments and position on a number of the PDP's objectives and policies as contained in Appendix 1 of the report.

Outstanding Issues

14. The following section addresses points made in section 5.24 of the report. These points are stated as issues for QLDC that have been carried over in the the decisions version of the PRPS. I will address the relevant bullet points by their order.

Significant Risk

15. Point 1 concerns the definition of 'significant'. In my experience, should a word not be defined by a document, it is good practice to refer to a recognised authority on definitions, such as the Oxford dictionary. The Oxford definition of significant is;

"Sufficiently great or important to be worthy of attention; noteworthy"

16. I regard it reasonable to suggest that this definition is clear and fits within the expression of the functions a local authority is required to exercise under s31 of the RMA.
17. In developing and reviewing its plans, as well as controlling actual or potential effects, a local authority must identify and consider natural hazards. The greater the effects any natural hazard risk gives rise to, then the more commensurate the consideration must be as to how that risk is best managed.
18. I note that the PRPS also uses the wordy 'significantly' in reference to increasing risk. If an assessment of an activity determines that natural hazard risk will be increased – and it is sufficiently increased so as to be noteworthy - I consider that PRPS Policy 4.1.6 direction will apply. A person/s charged with making a decision will be able to consider on weight of evidence, if that increase in risk is significant.

Increasing Risk

19. Point 2 concerns the PRPS inhibiting further development within existing built areas that are subject to natural hazard risk.
20. I infer this relates to PRPS Policy 4.1.6 of the decisions version of the PRPS. Should any proposed development be able to demonstrate that a natural hazard risk will not be significantly increased, then PRPS Policy 4.1.6 would not apply, the threshold is not triggered (I do not see then PRPS policy 4.1.6 outright requiring avoidance).

Tolerability

21. Point 5 refers to needing further clarification on the concept of 'tolerability'. In sections 6.6 to 6.8 of the report, the author addresses this in particular 6.7 where they conclude that the concept of tolerance is an important addition to the District Plan. Therefore I consider that issue resolved.
22. Tolerance for risk arises from the natural hazards facing a community and that community's ability to accommodate, or tolerate, those risks. Tolerance may vary from community to community, depending on the nature of the risk profile and the resources of the community to manage it.

Hazard Consideration

23. Point 6 relates to having greater flexibility with the Queenstown Lakes District in terms of policy that relates to consideration of hazards given local context.
24. While I can support 'flexibility' to mean a 'case by case' basis in terms of assessment (and which is supported in section 6.8 of the report), I am concerned it has the connotation of suggesting a different criteria for natural hazard risk management in the Queenstown Lakes District to that of the rest of Otago.
25. Section 6.1 of the report states that Chapter 28 introduces a 'risk-based' policy framework – as is Objective 4.1 of the PRPS.
26. This is important as it is not a 'location' based risk framework. Among other issues, location and context can be considered within the provisions of the relevant objectives and policies, but the outcomes of the framework is for the purpose of natural hazard management as required under section 31(a)(b)(i) of the RMA.

Dated at Dunedin this 6th day of March 2017



Name: Warren Hanley

Title: Resource Planner - Liaison

Organisation: Otago Regional Council

Chapter 28 Reference and content summary	S42A reference	ORC Comment on S42A recommendation	ORC position on S42A recommendation
28.1 (Purpose)	Pg 29	Agrees there shouldn't be a change from the use of wording 'tolerable/intolerable' to 'acceptable/unacceptable'. To do so would not be Consistent with PRPS	Support
28.2 (Natural Hazard Identification)	Pg 29-30	QLDC requested addition to reflect climatic extremes that will likely increase with climate change. This gives better effect to PRPS Objective 4.2 and Policy 4.2.2	Support
28.3.1 (objective) Risk of hazard to community avoided or mitigated to tolerable level.	Page 30	The term minimised is used in the PRPS and is subject to appeal. PDP should use whatever term is resolved through the PRPS process.	Oppose
28.3.1.1 – Assets or infrastructure are constructed/located to avoid/mitigate risk to life, property and infrastructural networks	Pg 32-34	As part of mediation discussions, consideration of how local service infrastructure (water, wastewater) can be considered by the PRPS. This policy is largely consistent with policy 4.3.1 a) of the PRS.	Support
28.3.1.2 – restrict activities which significantly increase natural hazard risk	Pg 34-35	This policy gives better alignment with PRPS.	Support
28.3.1.3 – recognise some areas already developed and subject to risk and minimise risk as far as possible and		It is not responsible to let an owner of property accept significant risk that the rest of the community finds intolerable. This	Support mitigating risk to existing communities.

accept landowner having different tolerance to risk		also sets up future owners of the land to inherit that risk with potentially no understanding of its significance. This opens up a number of issues, how should such risk, if accepted by a landowner, be recorded for future land owners to understand?	Oppose enabling individual landowners to fragment this approach by accepting greater risk. Tolerance is assessed at the community level, not an individual's level.
28.3.1.4 – Enable councils' statutory powers to carry out hazard mitigation works and need to mitigate effects as result of works			Support
28.3.1.5 – reduce hazard risk where practicable to existing communities		The S42A discussion rejects submission to refer to only significant hazards. This is important as further information may come to light on hazard areas that changes their significance and/or some hazards can be compounded by other hazards or environmental dynamics (i.e. Shotover River and Delta). Hazards should be able to be assessed on a case by case basis.	Support
28.3.2 (objective) Development on land with hazards only occurs when risk to community avoid or appropriately managed or mitigated			Support
28.3.2.1 – Avoid significant natural hazard risk, acknowledging that this will not always be practicable in developed areas.		As written this policy appears to be trying to be all things to all situations. To be consistent with policy 4.1.6 of the PRPS, the word 'increasing' should be added between 'Avoid' and 'significant'. If activity can be	Oppose

		<p>undertaken in developed areas without increasing significant natural hazard risk then both policies 4.1.6 and 28.3.2.1 allow for this. The words 'acknowledging that this will not always be practicable in developed areas' should be deleted.</p>	
<p>28.3.2.2 – Enable subdivision and development of land subject to natural hazards with provisions.</p>	<p>Pg 40-41</p>	<p>Points 1, 3 and 4: What is an 'unacceptable' level? Who makes that determination? Tolerable is accepted as being defined through community consultation. The PDP should use the wording tolerable/intolerable. This is supported by S42A report in s6.7 (pg 16-17)</p> <p>Point 5: ORC submitted a requirement for the policies of the PDP to not subject the wider community to ongoing mitigation costs - partially provided for in 28.3.2.2 instead of 28.3.2.3 as requested by ORC. This is acceptable to ORC.</p> <p>ORC requests the wording of policy should also state ongoing/future remedial works and costs should not be borne by the public</p>	<p>Oppose this wording in points 1, 3 and 4</p> <p>Support point 5 with requested change.</p>
<p>28.3.2.3 – Ensure all proposals provide assessment for natural hazard matters</p>	<p>Pg 42 (12.60)</p>	<p>Main body of policy: appropriate level of detail should be commensurate to risk level. Case by case assessment is appropriate as this recognises where caution may be required as the level of risk may be uncertain or undefinable or where</p>	<p>Support</p>

	<p>Pg 42 (12.62)</p> <p>Pg 43 (12.63)</p>	<p>multiple existing hazards may have the potential for a cascading effect (i.e. Shotover River and Delta area).</p> <p>Assessment should consider effects of exacerbating risk off site</p> <p>Removal of 'avoid' presumes mitigation of risk to a tolerable levels always possible – what if this is not possible, and/or community has indicated this is intolerable? Inconsistent with decision version of PRPS</p>	<p>Support</p> <p>Oppose</p>
<p>28.3.2.4 – Promote soft solutions over hard solution to mitigating natural hazard risk</p>	<p>Pg 43 (12.67)</p>		<p>Oppose: The policy as written is too broad and therefore would not give effect to Policy 4.1.10 of the PRPS which creates a clearer and measurable test for allowing hard structures.</p> <p>Policy 4.1.10 allows for practicality in provision b) where it recognises hard structures may be required where there are no reasonable alternatives.</p> <p>The wording of the policy should be more specific to reflect PRPS Policy 4.1.10</p>

<p>28.3.2.5 – Recognise some infrastructure will need to be situated on land subject to natural hazard risk</p>	<p>Pg 44</p>	<p>Matters related to this PDP policy are being discussed in PRPS mediation.</p>	<p>-</p>
<p>28.3.3 (objective) Enhance community awareness /understand of hazard risk</p>		<p>I note this policy suite does not give effect to PRPS policy 4.1.2 which requires that assessment of risk likelihood must cover no less than 100 year period. As this policy is not the subject of appeal, the PDP needs to give effect to this policy.</p>	<p>Support with requested change</p>
<p>28.3.3.4</p>		<p>Change ‘unacceptable’ to ‘intolerable’</p>	<p>Support with requested change</p>