

**BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Stages 3 and 3b of the
Proposed District Plan

**STATEMENT OF EVIDENCE OF CRAIG BARR
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

STRATEGIC OVERVIEW FOR ALL OF STAGE 3

18 March 2020



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1. INTRODUCTION

1.1 My full name is Craig Alan Barr. I am employed by the Queenstown Lakes District Council as principal planner, resource management policy and I am a full member of the New Zealand Planning Institute. I hold the qualifications of Master of Planning and Bachelor of Science from the University of Otago.

1.2 I have been employed in planning and development roles since 2006, for both local authorities as well as in private practice.

1.3 I have been employed by the Queenstown Lakes District Council (**QLDC** or **Council**) since 2012, which includes its former regulatory provider Lakes Environmental Limited. As a result, I am very familiar with the Upper Clutha, Queenstown and wider Queenstown Lakes District environment, having undertaken both plan administration and policy work across the District. For most of 2016, I held the position of Acting Manager Planning Policy.

1.4 I have been closely involved in the Proposed District Plan (**PDP**) process for QLDC. Over 2016 - 2018 I was the lead planner and reporting officer for QLDC in relation to the following hearings:

- (a) Strategic - Landscape (Chapter 6);
- (b) Rural - Rural Zone (Chapter 21);
- (c) Rural - Rural Residential and Lifestyle Zones (Chapter 22);
- (d) Rural - Gibbston Character Zone (Chapter 23);
- (e) Rural – Wakatipu Basin variation (Chapter 24);
- (f) District Wide - Energy and Utilities (Chapter 30);
- (g) District Wide - Indigenous Vegetation and Biodiversity (Chapter 33);
- (h) District Wide – Wilding Exotic Trees (Chapter 34); and
- (i) Upper Clutha rezonings (except Business Zones).

1.5 Of relevance to the PDP, I have also been closely involved in the appeals on the Proposed Regional Policy Statement for Otago 2015 for the Council as a s274 party. In February 2018 I appeared in the Environment Court for the Council on the 'Mining Topic' where QLDC

had a particular interest in landscapes and the protection and maintenance of indigenous biodiversity as it relates to mining activities¹.

- 1.6 I was the Council's planning expert for Stage 1 PDP Appeals in Topic 2 (Rural Landscapes) and I am directly involved in mediating most of the appeals on Stages 1 and 2 of the PDP, as a representative of Council with delegated authority to settle on Council's behalf, and also in a separate capacity as a planning witness.

PART A – OVERVIEW AND BACKGROUND

2. SCOPE OF THIS EVIDENCE

- 2.1 This evidence provides a strategic planning overview in relation to Stages 3 and 3b of the PDP. When I refer to "Stage 3" in this evidence, I am collectively referring to Stages 3 and 3b. This evidence does not address any particular submissions but is intended to be drawn upon by the respective Council Section 42A reports on submissions to avoid unnecessary repetition of context setting material.
- 2.2 This evidence is also prepared to assist the Hearings Panel (**Panel**) with information on the current status of PDP text, any amendments flowing from appeals on Stages 1 and 2 text (marked-up versions of Chapters 3 and 6 as amended by the Topic 1 and Topic 2 interim decisions are attached at **Appendix 1**, and the status of the Proposed Regional Policy Statement for Otago 2015.
- 2.3 In this report I focus specifically on:
- (a) the structure of the District Plan including the two-volume approach by way of geographic area;
 - (b) the status of the PDP;
 - (c) higher order legislative and strategic policy documents, and how they have informed or could influence the PDP; and

1 *Oceana Gold (New Zealand) Limited v Otago Regional Council* EnvC 41 [2019].

- (d) the relevant decision making frameworks including the approach to evaluating rezoning requests.

3. STRUCTURE OF THE DISTRICT PLAN

3.1 The Council is undertaking a partial and staged review of the Operative District Plan (**ODP**). Reasons for the partial and staged review date back to 2013-2015 and included attempts to reduce re-litigating current or recently settled plan changes to the ODP at the time of notification of Stage 1 (i.e. Queenstown Town Centre extension (Plan Change 50), Frankton Flats B (Plan Change 19), Peninsula Bay North (Plan Change 52), and Northlake Special Zone (Plan Change 45)), and to manage the volume of work (including the volume of submissions and potential appeals to the Environment Court) in stages, acknowledging the limits on Council's available resources.

A series of plan changes

3.2 The PDP provisions that become operative on completing the Schedule 1 RMA processes, will merge into and form part of the ODP, rather than constituting a separate replacement district plan. For convenience the Council continues to refer to what has been notified as the "Proposed District Plan".²

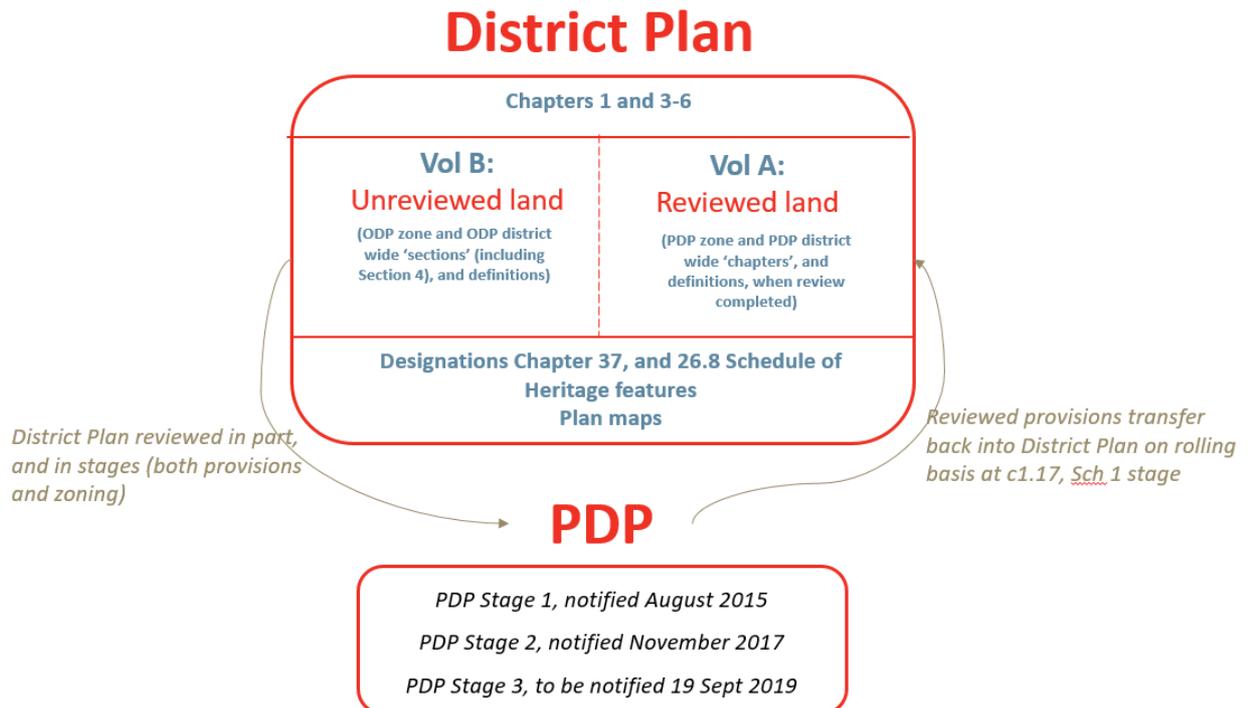
3.3 It is anticipated that eventually the entirety of the ODP will be superseded and replaced through the series of plan changes, although there will need to be further Council decisions to notify the residual land not yet included in a stage of the review. At the present time, around 99.8% of the district has been notified into what is referred to as the PDP.

2 Section 43AAC of the RMA (relevantly): Unless the context otherwise requires, **proposed plan** means a proposed plan, a variation to a proposed plan or change, or a change to a plan proposed by a local authority that has been notified under clause 5 of Schedule 1, but has not become operative in terms of clause 20 of that schedule.

Two volume approach

3.4 A fundamental component of the structure of the District Plan is the separation of the District Plan into two volumes, based on geographic area (i.e. reviewed and un-reviewed land).

3.5 The following diagram shows the Queenstown Lakes district plan and the relationship between the PDP and ODP. As the plan review progresses through Schedule 1 of the RMA, provisions will move from the PDP back into the district plan to create Volume A, “Reviewed Land”. This diagram deliberately does not include reference to ODP ‘Sections’ or PDP ‘Chapters’ (other than the strategic chapters), because they will change over time as they move through the review process and Volume B becomes progressively smaller and of limited relevance, applying to only that land that has not been reviewed and notified as part of the PDP.



3.6 The relationship between the PDP and ODP, and the two volume approach is further summarised as follows:

- (a) PDP Chapter 3 provides overarching strategic direction for the District;

- (b) The Chapter 3 objectives and policies are further elaborated on in PDP Chapters 4 – 6. Chapters 4, 5 and 6 provide more detailed higher order objectives (or policies only in the case of Chapter 6) for urban development, Tangata Whenua and rural landscapes, all applying district-wide except where otherwise specified³;
- (c) The PDP zone and district wide chapters (located in PDP Part 5) notified in Stages 1, 2 and 3 will end up in Volume A of the district plan, after working their way through the Schedule 1 process;
- (d) Volume B of the district plan will consist of the zone chapters not yet reviewed, and will need to include all ODP district wide chapters that need to remain in the district plan to regulate district wide issues, along with two objectives from Section 4 of the ODP, which are further explained below;
- (e) Section 4 of the ODP is encompassed in the review and will be replaced, with the exception of two objectives which are explained under paragraph 3.7 below;
- (f) All designations (District wide) were rolled over, or new requirements were sought, in Stage 1 of the PDP. There is one designations chapter in the district plan; and
- (g) The Heritage Chapter 26 includes listed heritage items. Some of these are located over Volume B land, and therefore is listed separately in the diagram above.

3.7 The Environment Court has acknowledged that the effect of the partial review is that the ODP Section 4 is encompassed by Stage 1 of the review⁴ because of the strategic nature for the entire District of PDP Chapters 3 to 6. All objectives in Section 4 of the ODP are being replaced by the PDP with the exception of the following two objectives of Section 4 of the ODP. These two objectives need to be treated differently for the reasons set out as follows:

³ For instance, refer to the 'exception' policy framework in Chapter 3 as amended by way of Environment Court interim decision 2.2, and PDP Policy 6.3.3.

⁴ *Darby Planning Limited Partnership v Queenstown Lakes District Council [2019] NZEnvC 133 at [7] (Topic 1 Decision)*.

ODP provision	Section	Status	Reason
Section 4.8, Natural Hazards: Objective 7.8.3(1)		Although encompassed in the review, it should not fall away for Volume B land.	Objective 7.8.3(1) has been replaced in the PDP, principally by Chapter 28 (Natural Hazards) and Chapter 30 (Energy and Utilities). These are not strategic chapters and only apply to Volume A (reviewed) land. Chapters 28 and 30 of the PDP do not apply to Volume B (unreviewed) land. Therefore this objective will remain for the Volume B (unreviewed) land, or there would be a gap in the objective framework for natural hazards, where Volume B land is at issue. At some time in the future when all Volume B land is reviewed, Objective 7.8.3(1) will fall away.
Section Affordable and Community Housing: Objective 1	4.10	Should remain for all of the District (ie. Volume A and B land)	The Affordable and Community Housing provisions are under review but have not yet been notified (this is expected to occur in 2020). When the affordable and community housing provisions are reviewed, Section 4.10 Objective 1 may fall away.

3.8 The following ODP zones have not been reviewed in either Stages 1, 2 or 3. The land that forms Volume B of the district plan consists of:

Volume B “unreviewed” land⁵
Section 12 – Special Zones: Penrith Park Zone
Section 12 – Special Zones: Bendemeer Zone
Section 12 – Special Zones: Remarkables Park Special Zone
Section 12 – Special Zones: Quail Rise Special Zone
Section 12 – Special Zones: Hydro Generation Overlay/Zone
Section 12 – Special Zones: Meadow Park Zone
Section 12 – Special Zones: Frankton Flats Zone
Section 12 – Special Zones: Frankton Flats B Special Zone
Section 12 – Special Zones: Kingston Village Zone
Section 12 – Special Zones: Shotover Country Special Zone

⁵ <https://www.qldc.govt.nz/planning/district-plan/volume-1-district-plan/>.

Section 12 – Special Zones: Arrowtown South Zone
Section 12 – Special Zones: Mt Cardrona Station Special Zone
Section 12 – Special Zones: Northlake Special Zone
Section 7 – Residential Areas: Ballantyne Road Wanaka Low Density Residential Zone (formerly referred to as the Ballantyne Road extension Plan Change 46)
Section 7 – Residential Areas and Section 10 Town Centre: Queenstown Town Zone and High Density Residential Zone (formerly referred to as Plan Change 50)
Section 7 – Plan Change 51 Peninsula Bay North
Section 7 – Residential Areas and Section 11 Business and Industrial Zones: Gorge Road. High Density Residential Zone and ODP Business Zone

3.9 This information was provided to the Environment Court in the context of the Topic 1 hearing. The list of zones sitting in the table immediately above, will be subject to change when new areas of land are notified as part of the PDP.

4. STATUS OF THE PDP AND MODIFICATIONS SINCE NOTIFICATION

4.1 The following key milestones provide context to the current review of the ODP (noting it is not a comprehensive list):

Stage 1

- (a) **26 August 2015:** PDP Stage 1 was notified on, comprising:
 - (i) Chapters 1 (Introduction) and 2 (Definitions);
 - (ii) Chapters 3 to 6 (Strategic Chapters);
 - (iii) Chapters 7 to 17 (Urban Environment - Zones);
 - (iv) Chapters 26, 27, 28, 30, 32, 33, 34, 35, 26 and 37 (District Wide);
 - (v) Chapters 41 to 43 (Special Zones).
- (b) **7 May 2018:** Council notified the decision on submissions.
- (c) **April – June 2018:** approximately 101 appeals are made to the Environment Court.
- (d) Chapters 5, 10, 11, 14, 32, 42, 43, and 44 received no appeals (although they may apply to land where the zoning is still contested).

- (e) **5 August 2019:** the Environment Court issued an interim decision (and erratum) on Topic 1 'A Resilient Economy'⁶ (**Topic 1 Decision**). This decision was in relation to appeals to Chapter 3 associated with general plan implementation and interpretation, and Strategic Objectives (**SO**) and Strategic Policies (**SP**) that relate to the economic well-being of the District and distribution of commercial activities.
- (f) **20 September 2019:** the Environment Court issued a decision on appeals on the boundary of Outstanding Natural Features and Outstanding Natural Landscapes from the Upper Clutha Environmental Society Incorporated, Seven Albert Town Property Owners, Allenby Farms Limited and James Wilson Cooper⁷ (**Decision 2.1**).
- (g) **18 October 2019:** the Environment Court made consent orders settling Chapter 34 (Wilding Exotic Trees)⁸.
- (h) **27 November 2019:** the Environment Court made consent orders approving a new resort zone, the Gibbston Valley Resort Zone (Chapter 45)⁹. The Gibbston Valley Resort Zone provides principally for visitor accommodation activities and includes onsite visitor activities based on the rural resources of Gibbston, and limited residential activity.
- (i) **19 December 2019:** the Environment Court issue an interim decision on Topic 2 'Rural Landscapes' (**Decision 2.2**). Topic 2 included those parts of Chapter 3 that affected rural activities and landscapes, and all of Chapter 6¹⁰. This decision covered text relief allocated to Topic 2, Subtopics 2-11.
- (j) **19 December 2019:** the Environment Court issue an interim decision on appeals from Lake McKay Station Limited, Hawthenden Farm Limited and Upper Clutha Environmental Society Incorporated in relation to the boundary of the Outstanding Natural Features and Outstanding Natural Landscapes¹¹ (**Decision 2.3**).

6 *Darby Planning Limited Partnership v Queenstown Lakes District Council* [2019] NZEnvC 133.

7 *Hawthenden Limited v Queenstown Lakes District Council* [2019] NZEnvC 160.

8 Consent Order for ENV-2018-CHC-133.

9 Consent Order for ENV-2018-CHC-54.

10 *Upper Clutha Environmental Protection Society Inc v Queenstown Lakes District Council* [2019] NZEnvC 205.

11 *Lake McKay Station Limited v Queenstown Lakes District Council* NZEnvC 206.

- (k) As at the **end of January 2020** all Environment Court facilitated mediation on Stage 1 PDP text¹² had been completed. Mediations of rezoning appeals is underway.
- (l) **31 January 2020:** two High Court appeals were served on Council in relation to Decisions 2.2 and 2.3. Those appeals, and a brief outline of the matters raised, are as follows:
 - (i) **Appellant: Upper Clutha Environmental Society Incorporated.** Matters raised: four errors of law alleged in relation to: the Court's decisions regarding the matter of scheduling (including the jurisdiction to do so through a 'Values Identification Framework'), the approach taken to section 7 (RCL) landscapes and the approach taken to the interpretation / application of the proposed Regional Policy Statement.
 - (ii) **Appellant: Hawthenden Limited.** Matters raised: errors of law alleged in relation to the Court's approach to the determination of the ONL boundary for the Hawthenden property, and the approach to interpreting Policy 3.2.3 of the proposed Regional Policy Statement.

Stage 2

- (a) **17 November 2017:** Stage 2 PDP notified, comprising:
 - (i) Chapter 24 Wakatipu Basin (a variation on Stage 1 Rural Zone and Rural Residential Zone as it relates to the inner Wakatipu Basin rural environment;
 - (ii) Chapter 25 Earthworks;
 - (iii) Chapter 29 Transport;
 - (iv) Chapter 31 Signs
 - (v) Chapter 38 Open Space and Recreation Zones;
 - (vi) Visitor Accommodation;
- (b) **7 March 2019:** Council notifies decision on submissions on Stage 2;
- (c) **April – June 2019:** Council receive approximately 84 appeals on the PDP Stage 2.

12 With the exception of Topic 11 Informal Airports.

- (d) Environment Court facilitated mediation began in March 2020.

Stage 3

- (a) Stage 3 PDP notified on 19 September 2019 including the following key topics (which include consequential variations to other PDP chapters):
 - (i) Chapter 20 Settlements Zone;
 - (ii) Chapter 19A Three Parks Zone;
 - (iii) Chapter 18A General Industrial Zone;
 - (iv) Chapter 39 Wāhi tūpuna;
 - (v) Design guidelines for the residential zones and the Business Mixed Use Zone;

- (b) On 31 October 2019, Council notified the Rural Visitor Zone and changes to the Open Space and Recreation Chapters and Queenstown Waterfront subzone. While initially referred to as 'Stage 3b', following the close of submissions on 2 December 2019 and with the notification of summary of decisions requested, on 31 January 2020, the two separately notified components of Stage 3 are at the same procedural stage.

National Planning Standards

- 4.2** The first set of National Planning Standards (**planning standards**) came into effect on 3 May 2019. This raises the matter of whether to promptly update and/or rehouse the District Plan to reflect the planning standards, or implement them as part of the next full plan review process.

- 4.3** Although the majority of standards are mandatory directions that do not go through a normal RMA Schedule 1 process it is anticipated that a large number of amendments may be required to rehouse the District Plan as a result of implementing the standards (via a RMA Schedule 1

process) and that this is likely to be disruptive to recently reviewed provisions.

- 4.4 Many aspects of the PDP are either compliant or largely consistent with the planning standards such as structure and format standards and Council are working towards implementing electronic accessibility and functionality standards, well ahead of the specified time requirements.
- 4.5 However, many of the definitions in the planning standards would require a cascade of changes to be made through the plan to integrate them into the both volumes of the District Plan. Although this has not been put to a Council resolution, to my knowledge Council staff intend to implement the planning standards in accordance with the required timelines for implementation, which lists QLDC as having to implement the first planning standards within seven years and definitions within nine years – well beyond the timeframe proposed for the review of the RMA and a number of NPSs and the ORPS.
- 4.6 I therefore understand the planning standards are not relevant to the Queenstown plan review and decision making on Stage 3.

5. SUBSTANTIVE AMENDMENTS TO STRATEGIC CHAPTERS

- 5.1 As identified above and reflected in **Appendix 1**, the Environment Court has made a series of interim decisions on Chapter 3 (Strategic Directions) and Chapter 6 (Landscapes and Rural Character). In some instances, the amendments (at this point in time at least) signpost the changes as one of either indicative, subject to invitations for conferencing and further testing, while the interim decisions on other text is more determinative.
- 5.2 I provide the following summary of the outcome of the Environment Court's findings on Topics 1 and 2 below (with particular emphasis on amendments to provisions in Chapters 3 and 6).
- 5.3 A summary is also provided on the appeals on other strategic provisions, noting that no appeals were received on Chapter 5 Tangata Whenua, or the related SOs or SPs.

Topic 1 'A Resilient Economy'

- 5.4** The Topic 1 hearing took place in late February 2019. The Environment Court confirmed the PDP description of the district's special qualities, strategic issues, strategic objectives and strategic policies as these relate to economic base, visitor industry, town centres, commercial and industrial areas and climate change.
- 5.5** The Court also confirmed (on the merits) two new strategic objectives about accessibility and the importance of arts, culture, recreation, events, identity and sense of place. At the time of writing my evidence the Court has not issued a final decision on the specific wording of those two new SOs (and the Court's Topic 1 decision remained interim).
- 5.6** Provisions / appeal points allocated to Topic 1, Subtopic 4 relating to Regionally Significant Infrastructure (**RSI**) were referred to Court assisted mediation rather than hearing, and are explained further below.

Topic 2 'Rural Landscapes'

- 5.7** Topic 2 comprised Chapter 3 (Strategic Directions) objectives and policies that relate to rural activities and subdivision, use and development in the rural environment. Topic 2 also included the entirety of Chapter 6 (Landscapes and Rural Character). Hearings took place in the weeks of 8 and 15 April, and 6 and 13 May.
- 5.8** Mediation on Subtopic 11 (RSI) took place in October 2018 and again in September 2019. Agreement was reached and consent order documentation is currently filed with the Court. This includes the RSI appeal points allocated to Topic 1.
- 5.9** Mediation on Subtopic 9 (Lakes and Rivers) was held in February 2019. Agreement was reached and consent order documentation is currently filed with the Court.

5.10 As set out earlier the Court has issued three interim decisions on Topic 2. Two of those decisions relate to disputes as to the site specific mapping of the boundaries of Outstanding Natural Features and Landscapes, and Rural Character Landscapes at:

- (a) Mt Iron (Allenby Farms Limited);
- (b) the Upper Clutha River near the Albert Town Bridge (Seven Albert Town Property Owners);
- (c) the Upper Clutha River and terraces near the confluence of the Hawea River (James Cooper);
- (d) the ONL boundary at Waterfall Creek and the area of Mt Brown and the Maungawera Valley (Upper Clutha environmental Society);
- (e) the Alluvial fan at Mt Alpha adjacent to Wanaka (Hawthenden Limited); and
- (f) the Foothills of the Pisa Range (Lake McKay Station Limited).

5.11 With the exception of minor changes to the ONL boundary at Mt Alpha, the exclusion of an approximately 2ha part of Mt Iron and a minor change to the ONL boundary associated with the Lake McKay Station appeal, the Environment Court agreed with the Council's landscape witness and the decisions version of the ONL boundaries were upheld.

5.12 In the Topic 2 Environment Court hearing the Council provided uncontested evidence as to the housing and business capacity of the District that was accepted by the Environment Court¹³. This is the same information and research base that informed the respective section 32 evaluations for Stage 3 (i.e. Settlements and Industrial review).

5.13 The key findings of the Environment Court in Decision 2.2 (on text) can be broadly summarised as follows:

- (a) The Court supported, and went further than the decisions version, as to the level of intervention considered necessary to effectively manage subdivision, use and development in the rural environment (i.e. that the ONF/L is protected, and the Rural Character Landscapes are maintained and visual

13 Decision 2.2 at [57] to [59].

amenity values are maintained or enhanced). Many appeals sought that the level of protection be diluted and that objectives and policies that enabled or provided for activities did not require any qualification as to balancing with environmental considerations.

- (b) The policy approach and processes for the management and identification of special zones and other zones that provide for rural living or resorts in rural areas (referred to in evidence as “carve-outs”) has been emphasised. The Court refers to these as ‘Exception Zones’ and has asked the parties to complete the drafting of this policy framework into Chapter 3. In essence, the exception zones are to provide for subdivision, use and development to the extent anticipated by those zones, but that any further subdivision, use and development must protect landscape values¹⁴.
- (c) A substantial departure from the PDP decisions version is that the Environment Court has directed the Council to include in the PDP, schedules of the values and attributes, and landscape capacity of the ONF/L and the Upper Clutha Rural Character Landscapes (i.e the Upper Clutha Basin), but limited to “priority areas” only¹⁵.

5.14 The Environment Court considered that the identification of the particular values and attributes of the landscape resource sat firmly within the Council’s role as a planning authority (as distinct from a regulatory authority i.e. through resource consents), and that it was the district plan’s role to identify and describe what the values and landscape capacity was of that resource, and not leave it up to individual resource consent proposals¹⁶.

5.15 The Court has asked the Council to provide feedback on how and when the policies that require the scheduling will occur, as well as a methodology and the identification of those priority areas. Formally, these matters have been suspended pending the outcome of those two appeals to the High Court above.

14 Refer to new Strategic Objective 3.2.5.1A.

15 Decision 2.2. Part B.

16 Decision 2.2 at [129] to [131].

Topic 3 'Urban Development'

5.16 Mediation took place in January 2019 and agreement was reached with the exception of two Chapter 4 policies. Consent documentation has been filed in relation to those matters in agreement. Parties agreed to delay a hearing pending the outcome of Topic 2.

Topic 4 'Biodiversity'

5.17 Mediation took place in December 2018 and while agreement was reached on many issues the policies relating to the management of Significant Natural Areas (**SNAs**), and the ability to construct tracks within SNAs was not settled. Prior to the hearing scheduled in December 2019, parties reached agreement and consent documentation was filed with the Environment Court in December 2019.

6. STATUTORY CONSIDERATIONS

Resource Management Act 1991

6.1 All components of Stage 3 were notified after the enactment of the Resource Legislation Amendment Act 2017 (effective from 1 October 2017). Amendments to the RMA made by that Amendment Act, apply to Stage 3. The statutory framework for assessing changes to the ODP, including the merits of the application of zones is set out in sections 31, 32, 32AA and 72 to 76 of the RMA. Guidance has been provided by the Environment Court as to the statutory requirements for consideration in *Colonial Vineyard Limited v Marlborough District Council*¹⁷, with additional direction provided by subsequent higher order decisions, including but not limited to the decision of the majority of the Supreme Court in *Environmental Defence Society v The New Zealand King Salmon Company Limited*¹⁸.

17 [2014] EnvC 55.

18 [2014] NZSC 38.

6.2 The PDP Stage 1 and Stage 2 Panel have also utilised this guidance¹⁹ and I adopt that guidance for the purposes of this evidence. For completeness the guidance referred to above is attached at **Appendix 2**.

6.3 Section 32 of the RMA requires the objective(s) of proposals to be examined for their appropriateness in achieving the purpose of the Act, and evaluation of the policies and methods (Rules and other provisions including mapping and zoning annotations on Plan maps) of those proposals to be evaluated in regard to:²⁰

- (a) Identifying and assessing benefits and costs of the environmental, economic, social and cultural effects anticipated from the implementation of the provisions; and
- (b) If there is uncertain information on the subject matter of the provisions, assessment of the risks of acting or not acting.

National Policy Statements

6.4 The two most relevant National Policy Statements (**NPS**) to Stage 3 are the NPS Urban Development Capacity 2016 (**NPSUDC**) and NPS Electricity Transmission 2009 (**NPSET**).

National Policy Statement for Urban Development

6.5 The objectives of the NPSUDC apply to decision makers making planning decisions that affect an urban environment. In addition, both 'demand' and 'development capacity' in the NPSUDC refer to the capacity of land intended for 'urban development', and not rural living opportunities. However, the demand and subsequent capacity (or availability) of housing for rural living opportunities is a relevant matter in the broader context of the RMA.

19 Refer to the Report of the Hearings Panel Report 1 Section 1.6 (Hearings of Submissions on Proposed District Plan – Introduction) 28 March 2018, and Report 18.1 Section 2 (Report and Recommendations of Independent Commissioners regarding Chapter 24 and Wakatipu Basin Planning Maps. 15 February 2019).
20 Section 32(2) RMA.

'Urban environment', and the Council's capacity assessments completed under the NPSUDC

- 6.6** Queenstown has a unique geographic landscape and hence the application of the NPSUDC is not as straightforward as it may be for councils that have one obvious urban environment. In terms of the NPSUDC, the District contains two main urban environments (Queenstown Urban Environment and Wanaka Urban Environment). The NPSUDC provides the Council discretion as to how to apply the urban environment definition in the context of the District and I note that the Council has not included land in the rural zones as part of the Urban Environment (i.e. the Rural, Rural Residential, Rural Lifestyle, Wakatipu Basin and Gibbston Character zones).
- 6.7** For the purposes of the NPSUDC housing and business development capacity assessment required by Policy PB1, the Council has approached the Wanaka Urban Environment as comprising Wanaka, Albert Town, Luggate²¹ and Lake Hāwea Township.
- 6.8** The approach to the Queenstown Urban Environment has been to include Sunshine Bay, Queenstown Bay, Queenstown Hill, Frankton, Frankton East, Arthurs Point, Kelvin Heights, Lake Hayes South, Arrowtown, and Jacks Point Zone. All of these areas are contained within the UGB identified on the PDP Planning Maps.
- 6.9** The Stage 3 Settlement Zones have been included as part of the urban environment, noting their location in Part 3 of the PDP, and their exclusion from the landscape categories²². The Settlement Zones are not contained in an UGB. This approach reflects the smaller scale of growth occurring and expected to continue to occur in these somewhat remote locations.
- 6.10** I note that the Council, in order to give effect to the NPSUDC, does not need to *zone* feasible development capacity for a 30 year (long term) time frame. Instead, essentially what the NPSUDC requires is that the

21 The settlement of Luggate does not have an urban growth boundary identified on the Stage 3 PDP plan maps, but this is the approach taken for the purposes of the NPSUDC housing and business development capacity assessment.

22 As identified on the Planning Maps.

Council should be ensuring that the zone framework in its district plan, provides sufficient housing and business development capacity that is feasible, for a 10 year (medium term) time frame and that this shall include an additional margin of feasible development capacity over and above projected demand of at least 20%.²³ This matter and the extent to which this relates to housing and industrial and business land and zoning is elaborated upon in the respective s42A reports, or supporting evidence.

- 6.11** I also note that the current capacity assessments were prepared in mid-2017 and that it is due to be updated by the end of 2020. I understand that updated capacity information in relation to business land will be provided as part of Councils evidence to this hearing due to the importance of this matter to submissions relating to business land and the General Industrial Zone.
- 6.12** The most recent evidence offered in support of the QLDC Housing Development Capacity Assessment (**HDCA**) was by Dr Fairgray for the Council as part of the appeals on the PDP Stage 2 - Topic 2 (Rural Landscapes). Mr Fairgray's evidence is discussed and attached to the Section 32 evaluation for Settlements.²⁴ Mr Fairgray notes that in his view the more remote settlements of Makarora, Kingston and Glenorchy comprise part of the rural environment, as well as consented rural living development in the Rural Zone, Gibbston Character Zone, Rural Residential and Rural Lifestyle Zones. The exception being that the Luggate township is considered part of the urban environment.
- 6.13** My view is that the NPSUDC does not require the particular consideration for satisfaction of sufficient development capacity for rural living opportunities, and this was supported by legal submissions for counsel for QLDC at the Topic 2 hearing (and appears to have been accepted in Decision 2.2). That said, I consider that rural living is worthy of consideration as a valid housing choice and should not be unduly constrained by the PDP simply because housing at sufficient

23 For the medium (10 year) term zoned feasible capacity can either be serviced, or the funding for the development infrastructure required to service the development capacity must be identified in a Long Term Plan. In meeting short term (3 year) demand, the development capacity must be zoned and serviced with development infrastructure.

24 Evidence in chief of James Douglas Marshall Fairgray, 23 October 2018. Refer in particular to paragraph 10.3.

capacity is provided for within the UGBs. Mr Fairgray’s evidence is that the District Plan enables sufficient capacity for long term growth within the urban environments, and enable significant plan enabled residential capacity in the rural environment.

PDP’s approach to housing

6.14 In terms of the responses of the PDP to contribute to housing capacity, the PDP utilises both intensification of existing urban areas and the identification of ‘new’ urban zoned land. Broadly, examples of intensification within existing urban areas, compared to the ODP, are provided in the table below:

PDP	ODP
<p><u>Lower Density Suburban Residential Zone:</u></p> <p>Minimum subdivision lot size of 450m² lots with the ability for infill housing to develop at a density of 300m², provided new buildings are limited to a height of 5.5m. Adding a residential flat of up to 70m² is a permitted activity.</p>	<p><u>Low Density Residential Zone:</u></p> <p>Minimum subdivision lot size 700m² (Wanaka) and 600m² (Queenstown) with a land use residential density of 450m².</p>
<p><u>Large Lot Residential ‘A’ Zone</u></p> <p>Areas zoned Rural Residential around Wanaka and at Lake Hāwea Township have been zoned Large Lot Residential A with a lot size of 2000m²</p>	<p><u>Rural Residential Zone (generally located amidst the Wanaka Urban Environment)</u></p> <p><u>Minimum to size in the Wanaka area is 4000m².</u></p>
<p>Several areas of ODP Low Density Residential Zoned land both developed and undeveloped were zoned to Medium Density Residential including:</p> <ul style="list-style-type: none"> • Wanaka: Scurr Heights, Kirimoko, areas south of Pembroke Park • Queenstown: Queenstown Hill, Goldfield Heights and Frankton Road 	
<p>Medium Density Residential Zone and High Density Residential Zone</p> <p>Greater flexibility in bulk and location standards including 7 metre height limit in Wanaka and Arrowtown and 8 metres in other locations in the MDR and 12-15m in the HDR with a 45% coverage standard in the MDR and a 75% standard in the HDR.</p>	
<p>Business Mixed Use Zone</p> <p>Greater flexibility in bulk and location standards including a 12 – 20m height limit in Queenstown and 12m height limit in Wanaka and 75% building coverage limit.</p>	

6.15 Examples of new urban zoned land identified in the notified PDP in 2015 (Stage 1) at Wanaka include approximately 40ha of Low Density Suburban Residential Land (from Rural Zone) and approximately 40ha of Large Lot Residential A Zone (from Rural Lifestyle Zone). In

Queenstown the PDP rezoned land on Queenstown Hill from Lower Density Suburban to Medium Density Residential. Council are also working through appeals to increase density in Jacks Point and Frankton.

- 6.16** The above, broad discussion illustrates some of the ways in which the PDP has introduced changes that meet the objectives and policy requirements of the NPSUDC, compared to the ODP zoning regime. The ODP also contains several master planned 'special zones' that make a substantial contribution to housing and business capacity, including Three Parks and Northlake in Wanaka, and Frankton Flats, Frankton Flats B, Queenstown Town Centre Extension, Shotover Country and the Remarkables Park Zone in Queenstown, and a new industrial zone at Coneburn (Chapter 44).

'Future' development capacity - new urban extensions under the PDP

- 6.17** The Council must consider long term capacity (30 years) and the NPSUDC requires consideration of future generations. There should be a clear pathway for the growth of urban environments to meet future demand, beyond the current capacity available within the District's zoned urban environment.
- 6.18** NPSUDC Objective OA1 and OA3 take a future looking perspective and contemplate that urban environments, over time, develop and change in response to the changing needs of people and communities and future generations.
- 6.19** Of relevant to this issue are PDP provisions such as:
- (a) Strategic Directions SO 3.2.2, 3.2.2.1 and SPs 3.3.13 to 3.3.15,
 - (b) Urban Development Policy 4.2.13; and
 - (c) Landscapes and Rural Character Policy 6.3.2.1.
- 6.20** These provisions provide a planning framework that clearly directs urban growth within the urban growth boundaries and existing settlements, to the extent that development to urban densities should be avoided outside defined urban growth boundaries. Extensions to

existing or new urban development should be undertaken through the Schedule 1 process as a way of discouraging ad hoc development and enables an integrated consideration of other development dimension and Council functions such as the Local Government Act 2002 and the provision of water, wastewater and roading infrastructure.

National Policy Statement on Electricity Transmission 2008

6.21 The National Policy Statement on Electricity Transmission (2008) (**NPSET**) requires local authorities to provide for electricity transmission activities at the local level. The NPSET provides a regulatory framework, which works in tandem with the National Environmental Standards for Electricity Transmission Activities (**NESETA**), as discussed below.

6.22 The NPSET has a single objective which is:

To recognise the national significance of the electricity transmission network by facilitating the operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:

- *managing the adverse environmental effects of the network; and*
- *managing the adverse effects of other activities on the network.*

6.23 The NPSET is only applicable to the operation of the high voltage national grid as defined in the NPSET itself. The national grid is defined in that NPS as “the assets used or owned by Transpower NZ Limited”.

6.24 In the District, the National Grid is located over the Rural Zone (ONL), and the Gibbston Character Zone, where it enters the District in the Kawarau Gorge area and then crosses through Gibbston. It then generally follows the Kawarau River corridor (but not directly within it) before passing through the urban settlements of Lake Hayes Estate, Shotover Country and the Ladies Mile area before terminating at the Frankton Substation, adjacent to the Five Mile commercial centre. While I am not aware of any proposed upgrades or extensions to the

existing National Grid, I note that future development within the District, or to other districts, involving an extension to the National Grid cannot be precluded.

National Policy Statement for Freshwater Management 2014

- 6.25** The NPSFM sets out objectives and policies for freshwater management. This NPS provides a National Objectives Framework to assist regional councils and communities to more consistently and transparently plan for freshwater management.
- 6.26** Given its regional council focus, the NPSFM does not directly require specific provisions to be included within district plans, but the RMA requires all district plans to give effect to NPSs as well as regional policy statements.
- 6.27** If the ORC were to adopt a policy from a NPS in its regional policy statement which directs the management of contaminants such as sediment or nutrients, and those contaminants could be associated with particular land uses (such as earthworks or urban development), the QLDC would need to give effect to those regional policies by way of district rules controlling land use. Any submissions that specifically engage with this matter would be addressed in the respective s42a report.

Regional Policy Statement for Otago

- 6.28** Section 75(3)(c) of the RMA requires that a district plan must “give effect to” any operative regional policy statement. Section 74(2)(a) of the RMA requires that a territorial authority “have regard to” any proposed regional policy statement when preparing or changing a district plan.

- 6.29** The Otago Regional Council resolved to make the Proposed Regional Policy Statement 2015 partially operative from 14 January 2019 (**PORPS**)²⁵. As observed by the Environment Court in Topic 1:²⁶

The review of the Otago Regional Policy Statement 1998 (“RPS98”) is now well advanced with several of its provisions now superseded by operative provisions of the proposed Otago Regional Policy Statement 2017 (“pRPS”). Some of the pRPS provisions are before the court for consent order determination. It can be anticipated that the advance of the pRPS to becoming the only operative RPS will continue through the process of the court’s determination of PDP appeals. As such, in determining whether the PDP gives effect to the RPS, we leave aside all superseded RPS98 provisions and treat all operative pRPS provisions as, in essence, part of the emerging RPS. Further, our regard to yet-operative pRPS provisions is on the basis that provisions beyond contention on appeal are accorded weight that reflects their likely role as future operative RPS provisions.

- 6.30** In the following section those PORPS objectives and policies that have been appealed and subsequently settled between the parties and consent orders have been made are prefaced with (CO), meaning consent order version. Given that the Environment Court has approved these provisions, it is considered that they can be given significant weight and the corresponding decisions version objectives and policies have not been recorded in this evidence. Likewise, the corresponding operative (RPS 1998) objectives and policies have not been recorded in this evidence in accordance with the Court’s observations recorded above.

- 6.31** The component of the PORPS that has not been made operative by the ORC is Part B Chapter 3 ‘*Otago has high quality natural resources and ecosystems*’. These provisions appear to have been recently resolved where parties to the appeal attended a judicial settlement conference on 27 February and the Environment Court made consent orders on 6 March 2020. The Consent order is attached at **Appendix 3**. I note that the attached provisions to that consent order only show

25 Weblink to the PORPS 2019. The Otago Regional Council has resolved to notify a replacement Regional Policy Statement by November 2020 as instructed by the Environment Minister and for that proposed Regional Policy Statement to be made operative by 1 April 2022. Weblink to the ORC agenda report for its January 22 Meeting setting out the work programme for review of the RPS.

26 [2019] NZEnvC 133 at [25].

amendments to Policy 3.2.4 that relates to Outstanding Natural Features and Outstanding Natural Landscapes. I understand that the balance of Chapter 3 of the PRPS has been confirmed. **Appendix X** contains the consent memoranda relating to the balance of Chapter 3.

- 6.32** Many objectives of the PORPS are relevant to the PDP (Stage 3 topics) and the PORPS directs that that in giving effect to the PORPS all objectives and policies must be considered together²⁷. I have left consideration of how the respective PDP Stage 3 topics give effect to the respective Objectives, policies and provisions of the PORPS for the more specific evaluation of the respective Stage 3 topics and associated submissions. However, in broad terms and at a high-level, I have identified the following PRPS objectives provisions as being of relevance to the PDP and Stage 3 topics.
- 6.33** Objectives 1.1 and 1.2 are high-level objectives that seek to achieve sustainable management of the Otago region's natural and physical resources and, and achieve integrated management in a very similar vein to Section 5 of the RMA.
- 6.34** An overview of Kai Tahu, Principles of the Treaty of Waitangi, partnership and Mana Whenua in the Otago region is provided in the Overview (Part A) section of the PORPS. The following Objectives in Part B are of particular relevance to the PDP, and Stage 3 in particular:
- (a) Objective 2.1 – the principles of Te Tiriti o Waitangi are taken into account in resource management processes and decisions. The management of Wāhi tūpuna is set out in the following:
 - (b) Objective 2.2 - Kāi Tahu values, interests and customary resources are recognised and provided for;
 - (i) Policy 2.2.2 Recognising sites of cultural significance. Policy 2.2.2 is to (a) avoid significant adverse effects on those values that contribute to the identified wāhi tūpuna begin significant, (b) avoiding, remedying or mitigating other adverse

27 PORPS Part A introduction at [8].

effects, and (c) managing the identified wāhi tūpuna sites in a culturally appropriate manner.

- (ii) Policy 2.2.3 is to enable Kai Tahu relationships with wāhi tūpuna.

6.35 Method 4.1.1 (City and District Plans) of the PORPS states that Policy 2.2.2 shall be implemented by district plans through (a) including provisions to recognise the wāhi tūpuna and to protect the values that contribute to wāhi tūpuna being significant, and (b) identifying the location on plans of the wāhi tūpuna to be protected and the values that contribute to their significance, using the guide in Schedule 1C of the PORPS to assist.

6.36 The matter of the appropriate management of the productive soil resource relates to the following policies:

- (a) (CO) Objective 3.1 - The functions and values of Otago's ecosystems and natural resources are recognised, maintained or enhanced where degraded;
 - (i) (CO) Policy 3.1.7 Soil Values
 - (ii) (CO) Policy 3.1.8 Soil Erosion
- (b) (CO) Objective 3.2 - Otago's significant and highly-valued natural resources are identified, and protected or enhanced where degraded
 - (i) (CO) Policy 3.2.17 Identifying significant soil
 - (ii) (CO) Policy 3.2.18 Managing Significant Soil
- (c) Objective 5.3 – Sufficient land is managed and protected for economic production;
 - (i) Policy 5.3.1 Rural Activities

6.37 Method 4.1.5 (City and District Plans) of the PORPS states that Policies 3.1.7, 3.2.18, 4.5.1, and 5.3.1 shall be implemented by managing urban growth and development and the subdivision of land to protect significant soils

6.38 The management of landscapes includes both amenity landscapes and the outstanding natural features and landscapes. The most relevant policies sit under CO Objective 3.2 and are:

- (a) CO Policies 3.2.3 and 3.2.5 which relate respectively to the identification of outstanding natural features and landscapes and highly valued natural features, landscapes and seascapes, of which rural amenity landscapes fall into;
- (b) CO Policy 3.2.4 Managing outstanding natural features, landscapes and seascapes;
- (c) CO Policy 3.2.6 which relates to managing highly valued natural features, landscapes and seascapes.

6.39 With regard to natural hazards, the following policies of the PORPS are relevant:

- (a) Objective 4.1 - Risk that natural hazards pose to Otago's communities are minimised.
 - (i) Policy 4.1.1 Identifying natural hazards;
 - (ii) Policy 4.1.2 Natural hazard consequence;
 - (iii) Policy 4.1.4 Assessing activities for natural hazard risk;
 - (iv) Policy 4.1.5 Natural hazard risk;
 - (v) Policy 4.1.6 Minimising increase in natural hazard risk; and
 - (vi) Policy 4.1.10 Mitigating natural hazards.

6.40 Objective 4.5 – Urban growth and development is well designed, occurs in a strategic and coordinated way, and integrates effectively with adjoining urban and rural environments.

- (a) Policy 4.5.1 Providing for urban growth and development;
- (b) Policy 4.5.2 Integrating infrastructure with land use;
- (c) Policy 4.5.3 Urban Design

6.41 Objective 5.3 – Sufficient land is managed and protected for economic production.

- (a) Policy 5.3.1 – Rural activities, seeks to manage activities in rural areas, to support the region's economy and communities, by seeking that amongst other matters; (a) enabling primary production and other rural activities that support that production, (d) restricting the establishment of

incompatible activities that are likely to lead to reverse sensitive effects, (e) minimising the subdivision of productive rural land into smaller lots that may result in a loss of its productive capacity or productive efficiency and (f) providing for other activities that have a functional need to locate in rural areas.

- (b) Policy 5.3.2 – Distribution of commercial activities. Which seeks to manage the distribution of commercial activities by:
 - (i) Enabling a wide variety of commercial, social and cultural activities in central business districts, and town and commercial centres;
 - (ii) Enabling smaller commercial centres to service local community needs;
 - (iii) Restricting commercial activities outside of a) and b) when such activities are likely to undermine the vibrancy and viability of those centres;
 - (iv) Encouraging the adaptive reuse of existing buildings.
- (c) Policy 5.3.3 – Industrial land. Seeks to manage the finite nature of land suitable and available for industrial activities, by all of the following:
 - (i) Providing specific areas to accommodate the effects of industrial activities;
 - (ii) Providing a range of land suitable for different industrial activities, including land-extensive activities;
 - (iii) Restricting the establishment of activities in industrial areas that are likely to result in:
 - i. Reverse sensitivity effects; or
 - ii. Inefficient use of industrial land or infrastructure.
- (d) The relevant PRPS provision relating to tourism activities is PORPS Policy 5.3.1 which recognises the social and economic value of some forms of outdoor recreation and tourism having access to and being located within outstanding natural features and landscapes.

7. NON-STATUTORY PLANS AND PUBLICATIONS

- 7.1 A number of non-statutory plans have been prepared under the Local Government Act principles and mandated by resolutions of Council. Future planning workshops were held from 2002 to 2004, resulting in the formation of community plans for Wanaka, Hāwea, Cardrona, Luggate and Makarora.²⁸
- 7.2 In many cases these plans, or substantial parts of them have been implemented through the PDP and now form part of the statutory planning regime for the District. Plans such as the Wanaka 2020 and the resultant Wanaka Structure Plan 2007 have been implemented through the PDP Wanaka Urban Growth Boundary and location of residential or business zones within urban Wanaka. The Hāwea, Luggate, Makarora and Cardrona community plans have been considered as part of the section 32 evaluation for these areas and the review of the ODP Township Zones. Where relevant, non-statutory plan and community documents will be referred to in the respective evidence on submissions.
- 7.3 Current master planning documents that have been subject to broad consultation are the Frankton and Wanaka Masterplans. The Wanaka Masterplan focuses on roading and walking integration, potential new roads and alternative roading layouts. The Frankton Masterplan also focuses heavily on transport matters, but also suggests possible future land uses such as higher densities of residential activity along Frankton Road / SH 6²⁹.

Spatial Plan

- 7.4 The Council in conjunction with Ngāi Tahu and the Government are currently preparing a Spatial Plan 'Grow Well/Whaiora' that will identify potential growth and infrastructure areas taking a 30-year view. This Spatial Plan is also intended to meet the requirement in the NPSUDC to produce a 30-year Future Development Strategy.

28 Refer to <http://www.qldc.govt.nz/planning/other-planning-information/strategic-growth-management/>
29 Generic information on various transport and parking strategies including the Queenstown Town Centre Masterplan 2017, Queenstown Integrated Transport Strategy 2017, Frankton Masterplan 2018, Wanaka Network Operating Framework 2018, Wanaka Masterplan 2018 and Wanaka Masterplan 2018 are available via the following link: <https://www.qldc.govt.nz/services/transport-and-parking/transport-strategies>.

- 7.5** To date, the Council have undertaken community consultation workshops, meetings and online engagement, undertaken workshops with community stakeholders and a range of technical experts. A draft spatial plan for the QLDC area and for Cromwell will be presented for consultation in the middle part of 2020, with opportunities for submissions and hearings of this submissions projected for the latter part of 2020³⁰.

PART B – APPROACH TO REQUESTS TO REZONE LAND

8. OVERARCHING STRATEGY

- 8.1** The relevant objectives of the PRPS and PORPS are set out in part 6 above, and promote urban growth in a coordinated manner that is supported by planned and coordinated infrastructure. The respective PORPS documents also seek that landscape and scenic values, indigenous biodiversity and rural production is appropriately managed.
- 8.2** The PDP Strategic Direction Chapter gives effect to the RPS and PORPS through the coordinated and planned approach to the spatial application of land use activities and supporting policy framework.
- 8.3** Zoning is also a key method to give effect to the objectives and policies of the PRPS and PORPS and the NPSUDC. In determining the zoning that should be applied in response to submissions, the assessments have been guided by the overall strategy of the Strategic Directions chapter to focus growth within the identified urban growth boundaries, promote increased densities where appropriate, to protect the ONF/L and maintain the character of Rural Character Landscapes³¹, in terms of both their intrinsic value, and economic value to the region and the District's tourism economy.³²

30 Information on the Spatial Plan is available via the following link: <https://letstalk.qldc.govt.nz/spatial-plan>

31 Refer to Appendix 1 and in particular SO 3.2.5xx, SO 3.2.5.2 and SP 3.3.1A.

The Council's Approach to Zoning

- 8.4 Zoning is a key method to achieve the Strategic Directions of the PDP, the Regional Policy Statement (**RPS**) and the NPSUDC.
- 8.5 The Strategic Directions of the PDP and zoning framework focus urban development within identified urban growth boundaries and provide for the coordinated and integrated provision of infrastructure within these identified locations.
- 8.6 In addition to the tests outlined above by the Colonial Vineyards guidance, and the Strategic Directions of the PDP, a range of assessment principles (**Rezoning Assessment Principles**) have been identified to assist in answering the question of '*what is the most appropriate zoning for an area land?*' as part of any evaluation under s32AA of the RMA.
- 8.7 The following assessment rezoning principles are not intended to paraphrase the tests set out in **Appendix 2 (Colonial Vineyards)**, but rather are intended to elaborate upon those tests as it may apply to matters raised in the Stage 3 submissions:
- (a) whether the change is consistent with the objectives and policies of the proposed zone. This applies to both the type of zone in addition to the location of the zone boundary;
 - (b) whether the change is consistent with the PDP Strategic Directions chapters (Chapters 3-6);
 - (c) the overall impact of the rezoning gives effect to the PRPS and PORPS;
 - (d) relevant issues debated in recent plan changes are considered;
 - (e) changes to zone boundaries are consistent/considered alongside PDP maps that indicate additional overlays or constraints (e.g. Airport Obstacle Limitation Surfaces, SNAs, Building Restriction Areas, ONF/ONL);
 - (f) changes should take into account the location and environmental features of the site (e.g. the existing and consented environment, existing buildings, significant features and infrastructure);

- (g) zone changes recognise the availability or lack of major infrastructure (e.g. water, wastewater, roads), and that changes to zoning does not result in unmeetable expectations from landowners to the Council for provision of infrastructure and/or management of natural hazards;
- (h) zone changes take into account effects on the wider network water, wastewater and roading capacity, and are not just limited to the matter of providing infrastructure to that particular site;
- (i) there is adequate separation and/or management between incompatible land uses;
- (j) rezoning in lieu of resource consent approvals, where a portion of a site has capacity to absorb development does not necessarily mean another zone is more appropriate; and
- (k) zoning is not determined by existing resource consents and existing use rights, but these will be taken into account.



Craig Barr

18 March 2020

APPENDIX 1

Marked-up versions of Chapters 3 and 6 as amended by the Topic 1 and Topic 2 interim decisions

FOR COURT AND TOPIC 2 PARTIES

As amended by Environment Court interim decisions:

- Topic 1 'A Resilient Economy' 5 August 2019;
- Topic 1 Erratum 26 August 2019;
- Topic 2 'Rural Landscapes' 19 December 2019.

Key for Chapter 3:

Decisions text is black. All changes in underlined and ~~struck through~~ text.

Text highlighted blue is Topic 1 text

Text highlighted tan is Topic 2 text

Text highlighted orange is Topic 3 text.

Text highlighted green is Topic 4 text.

Topic 1 Subtopic 4, and Topic 2 Subtopic 11 Regionally Significant Infrastructure: provisions subject to updated September 2019 consent documentation are in purple underlined and ~~struck through~~ text and highlighted grey. [Not yet confirmed by the Court]

3 Strategic Direction

3.1 Purpose

This chapter sets out the over-arching strategic direction for the management of growth, land use and development in a manner that ensures sustainable management of the Queenstown Lakes District's special qualities:

- a. ~~dramatic~~ distinctive lakes, rivers, alpine and high country landscapes free of inappropriate development;
- b. clean air and pristine water;
- c. vibrant and compact town centres;
- d. compact and connected settlements that encourage public transport, biking and walking;
- e. diverse, resilient, inclusive and connected communities;
- f. a district providing a variety of lifestyle choices;
- g. an innovative and diversifying economy based around a strong visitor industry;
- h. a unique and distinctive heritage;
- i. distinctive Ngāi Tahu values, rights and interests;
- j. [Topic 4].

3.1A Strategic Issues

~~The following issues need to be addressed to enable the retention of these special qualities:~~

The following Strategic Issues are overarching. While not intended to be an exhaustive list or description of issues to be addressed in the District's pursuit of sustainable management, these Strategic Issues are

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identified as warranting to be addressed at the present time and during the lifetime of the Plan (and beyond) to enable the retention of the special qualities listed at a. – i. of 3.1 Purpose:

- a. Strategic Issue 1: Economic prosperity and equity, including strong and robust town centres, requires economic diversification to enable and the social and economic wellbeing and resilience of the District's of people and communities. may be challenged if the District's economic base lacks diversification.
- b. Strategic Issue 2: Growth pressure impacts on the functioning and sustainability of urban areas, and risks detracting from rural landscapes, particularly its outstanding natural features and outstanding natural landscapes.
- c. Strategic Issue 3: High growth rates can challenge the qualities that people value in their communities.
- d. Strategic Issue 4: The District's natural environment, particularly its outstanding landscapes, has intrinsic qualities and values worthy of protection in their own right, as well as offering significant economic value to the District. Some resources of the District's natural environment, particularly its outstanding natural features and outstanding natural landscapes and their landscape values, require effective identification and protection in their own right as well as for their significant contribution to the District's economy.
- e. Strategic Issue 5: The design of developments and environments can either promote or weaken safety, health and social, economic and cultural wellbeing.
- f. Strategic Issue 6: Tangata Whenua status and values require recognition in the District Plan.

3.1B Interpretation and Application of this Chapter

3.1B.1 For the purpose of plan development, including plan changes, the Strategic Objectives and Strategic Policies in this Chapter provide direction for the development of the more detailed provisions contained elsewhere in the District Plan in relation to the Strategic Issues.

3.1B.2 For the purpose of plan implementation (including in the determination of resource consent applications and notices of requirement):

- a. The Strategic Objectives and Strategic Policies in this Chapter may provide guidance on what the related objectives and policies in other chapters of the Plan are seeking to achieve in relation to the Strategic Issues;
- b. The relevant objectives and policies of the plan (including Strategic Objectives and Strategic Policies in this chapter) are to be considered together and no fixed hierarchy exists between them.

3.1B.3 In this Plan, the notation 'SO' means 'Strategic Objective'. The notation 'SP' means 'Strategic Policy'.

3.1B.4 The following relationships apply as between Strategic Objectives and Strategic Policies of this Chapter:

- a. Where it is intended that a Strategic Objective elaborates on another Strategic Objective, that is specified in italicised text in brackets immediately following the Strategic Objective that is elaborated on. Unless otherwise specified, where a Strategic Objective enumerated to three digits (e.g. 3.2.1) ('Three Digit Strategic Objective') is followed by one or more Strategic Objectives enumerated to four digits (e.g. 3.2.1.1, 3.2.1.2) ('Four

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Digit Strategic Objective’), those Four Digit Strategic Objectives elaborate on that Three Digit Strategic Objective;

- b. Many Strategic Policies in Chapter 3 implement more than one Strategic Objective. This is reflected in how Strategic Policies are grouped. The relationship(s) intended between individual Strategic Policies and the relevant Strategic Objective(s) is specified in the italicised text in brackets following each Strategic Policy.

3.1B.5 In 3.1.B.6 and SO 3.2.5.1A and 3.2.5.2A, ‘Exception Zone’ means any of the following:

a. The Ski Area Sub-Zone;

b. The following Special Zones:

i. Ch 41 Jacks Point;

ii. Ch 42 Waterfall Park;

iii. Ch 43 Millbrook; and

iv. Gibbston Character Zone;

c. The Rural Residential Zone; and

d. The Rural Lifestyle Zone –

in each case to the extent that the Zone (or Sub-Zone) is depicted on the planning maps as at [xxx date to come related to determination of related appeals].

3.1B.6 The following Strategic Objectives and Strategic Policies do not apply to applications for any subdivision, use or development within any of the Exception Zones:

a. SO [xxx to come], SO [xxx to come], [xxx list here all applicable SOs]; and

b. SP [xxx to come], SO [xxx to come], [xxx list here all applicable SPs].

3.1B.7 In this Chapter:

a. ‘Landscape capacity’:

i. in relation to an Outstanding Natural Feature or Outstanding Natural Landscape, means the capacity of a landscape or feature to accommodate subdivision and development without compromising its identified landscape values;

ii. in relation to a landscape character area in a Rural Character Landscape, means the capacity of the landscape character area to accommodate subdivision and development without compromising its identified landscape character and whilst maintaining its identified visual amenity values;

b. ‘Landscape values’ in relation to any an Outstanding Natural Feature, Outstanding Natural Landscape or Rural Character Landscape includes biophysical, sensory and associative attributes (and ‘values’ has a corresponding meaning);

c. ‘Rural Living’ means residential-type development in a Rural Character Landscape or on an Outstanding Natural Feature or in an Outstanding Natural Landscape, including of the nature anticipated in a Rural Residential or Rural

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Lifestyle zone but excluding residential development for farming or other rural production activities;

d. 'Priority Area':

i. in relation to an Outstanding Natural Feature or Outstanding Natural Landscape, means an area listed in SP x.x.x.x and shown on the maps in Schedule 21;

ii. in relation to the Upper Clutha Rural Character Landscape, means an area listed in SP x.x.x.x and shown on the maps in Schedule 21.

This chapter sets out the District Plan's strategic Objectives and Policies addressing these issues. High level objectives are elaborated on by more detailed objectives. Where these more detailed objectives relate to more than one higher level objective, this is noted in brackets after the objective. Because many of the policies in Chapter 3 implement more than one objective, they are grouped, and the relationship between individual policies and the relevant strategic objective(s) identified in brackets following each policy. The objectives and policies in this chapter are further elaborated on in Chapters 4 – 6. The principal role of Chapters 3 – 6 collectively is to provide direction for the more detailed provisions related to zones and specific topics contained elsewhere in the District Plan. In addition, they also provide guidance on what those more detailed provisions are seeking to achieve and are accordingly relevant to decisions made in the implementation of the Plan.

3.2 Strategic Objectives

3.2.1 The development of a prosperous, resilient and equitable economy in the District (addresses Issue 1)

- 3.2.1.1 The significant socioeconomic benefits of well designed and appropriately located visitor industry places, facilities and services are realised across the District.
- 3.2.1.2 The Queenstown and Wanaka town centres¹ are the hubs of New Zealand's premier alpine visitor resorts and the District's economy.
- 3.2.1.3 The Frankton urban area (including the Remarkables Park mixed use centre) functions primarily as a major commercial and industrial service centre, and provides community facilities, for the people of the Wakatipu Basin.
- 3.2.1.4 The key function of the commercial core of Three Parks is focused on large format retail development.
- 3.2.1.5 Local service and employment functions served by commercial centres and industrial areas outside of the Queenstown and Wanaka town centres², Frankton and Three Parks, are sustained.

1 Defined by the extent of the Town Centre Zone in each case

2 Defined by the extent of the Town Centre Zone in each case

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3.2.1.6 Diversification of the District's economic base and creation of employment opportunities through the development of innovative and sustainable enterprises.

3.2.1.7 ~~Agricultural land uses consistent with the maintenance of the character of rural landscapes and significant nature conservation values are enabled. (also elaborates on SO 3.2.4 and 3.2.5 following)~~

Agricultural land uses are enabled provided those uses are consistent with:

- a. the protection of the landscape values of Outstanding Natural Features and Outstanding Natural Landscapes;
- b. the maintenance of the landscape character of Rural Character Landscapes and the maintenance or enhancement of their visual amenity values; and
- c. The maintenance of significant nature conservation values.

3.2.1.8 ~~Diversification of land use in rural areas beyond traditional activities, including farming, provided that the character of rural landscapes, significant nature conservation values and Ngāi Tahu values, interests and customary resources, are maintained. (also elaborates on SO 3.2.5 following)~~

Diversification of land use in rural areas beyond traditional activities, including farming is enabled provided that:

- a. the landscape values of Outstanding Natural Features and Outstanding Natural Landscapes are protected;
- b. the landscape character of Rural Character Landscapes is maintained and their visual amenity values are maintained or enhanced; and
- c. significant nature conservation values and Ngai Tahu values, interests and customary resources, are maintained.

3.2.1.9 ~~Infrastructure in the District that is operated, maintained, developed and upgraded efficiently and effectively to meet community needs in a sustainable way. and to maintain the quality of the environment. (also elaborates on SO 3.2.2 following)~~

3.2.2 [Topic 3]

(Strategic Objective 3.2.2.1 elaborates on Strategic Objective 3.2.2. SO 3.2.1.9 also elaborates on SO 3.2.2).

3.2.2.1 [Topic 3]

3.2.3 [Topic 3]

(Strategic Objective 3.2.3.1 elaborates on Strategic Objective 3.2.3. In addition, SO 3.2.2.1 also elaborates on SO 3.2.3).

3.2.3.1 [not appealed]

3.2.3.2 [Topic 3]

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3.2.4 [Topic 4]

(Strategic Objectives 3.2.4.1 – 3.2.4B inclusive elaborate on Strategic Objective 3.2.4. In addition, SO 3.2.1.7 also elaborates on SO 3.2.4).

3.2.4.1 [Topic 4]

3.2.4.2 [Topic 4]

3.2.4.3 [Topic 4]

3.2.4.4 [Topic 4]

3.2.4.5 [Topic 4]

3.2.4.A [Topic 4].

3.2.4.B [Topic 4].

3.2.5 The retention of the District's distinctive landscapes. (addresses Issues 2 and 4)

(Strategic Objectives 3.2.5.1 – 3.2.5.2A inclusive elaborate on Strategic Objective 3.2.5. In addition, SO 3.2.1.7, SO 3.2.1.8 and 3.2.2.1 also elaborate on SO 3.2.5).

Outstanding Natural Features and Outstanding Natural Landscapes

3.2.5.x The District's Outstanding Natural Features and Outstanding Natural Landscapes and their landscape values and landscape capacity are identified.

3.2.5.xx Within the Rural Zone, new subdivision, use and development is inappropriate on Outstanding Natural Features or in Outstanding Natural Landscapes unless:

a. where the landscape values of Outstanding Natural Features and Outstanding Natural Landscapes are specified in Schedule 21.22, those values are protected;

b. where the landscape values of Outstanding Natural Features and Outstanding Natural Landscapes are not specified in Schedule 21.22, the values identified according to SP [x.x.x.y] [the intended new SP on assessment methodology] are protected.

3.2.5.xxx In locations other than in the Rural Zone, the landscape values of Outstanding Natural Features and Outstanding Natural Landscapes are protected from inappropriate subdivision, use and development.

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.

3.2.5.1A In each Exception Zone located within Outstanding Natural Features and Outstanding Natural Landscapes, any application for subdivision, use and development is provided for:

a. to the extent anticipated by that Exception Zone; and

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- b. on the basis that any additional subdivision, use and development not provided for by that Exception Zone protects landscape values.

Rural Character Landscapes

- 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.~~

Within Rural Character Landscapes, adverse effects on landscape character and visual amenity values from subdivision or development are anticipated and effectively managed, through policies and rules, so that:

- a. landscape character is maintained; and
- b. visual amenity values are maintained or enhanced.

- 3.2.5.iv In Rural Character Landscapes, new subdivision, use and development in proximity to any Outstanding Natural Feature or Outstanding Natural Landscape does not compromise the landscape values of that Feature or Landscape.

- 3.2.5.v In Rural Character Landscapes of the Upper Clutha Basin:

- a. Priority Areas of Rural Zoned Rural Character Landscapes are identified, including by mapping; and
- b. associated landscape character and visual amenity values are identified.

- 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. (addresses Issues 1 and 6)**

- 3.2.7 The partnership between Council and Ngāi Tahu is nurtured. (addresses Issue 6).**

(Strategic Objectives 3.2.7.1 and 3.2.7.2 elaborate on Strategic Objective 3.2.7).

- 3.2.7.1 Ngāi Tahu values, interests and customary resources, including taonga species and habitats, and wahi tupuna, are protected.
- 3.2.7.2 The expression of kaitiakitanga is enabled by providing for meaningful collaboration with Ngāi Tahu in resource management decision making and implementation.

3.3 Strategic Policies

Visitor Industry

- 3.3.1** Make provision for the visitor industry to maintain and enhance attractions, facilities and services within the Queenstown and Wanaka town centre areas and elsewhere within the District's urban areas and settlements at locations where this is consistent with objectives and policies for the relevant zone. (relevant to S.O. 3.2.1.1, 3.2.1.2)

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3.3.1A In Rural areas, provide for commercial recreation and tourism related activities that enable people to access and appreciate the district's landscapes provided that those activities are located and designed and are of a nature that:

- a. protects the landscape values of Outstanding Natural Features and Outstanding Natural Landscapes; and
- b. maintains the landscape character and maintains or enhances the visual amenity values of Rural Character Landscapes.

3.3.1B [Potential Resorts Policy] – not decided in Topic 2 decision

Town Centres and other Commercial and Industrial Areas

- 3.3.2** Provide a planning framework for the Queenstown and Wanaka town centres that enables quality development and enhancement of the centres as the key commercial, civic and cultural hubs of the District, building on their existing functions and strengths. (relevant to S.O. 3.2.1.2).
- 3.3.3** Avoid new commercial zoning of land that is likely to ~~could~~ undermine the role of the Queenstown and Wanaka town centres as the primary focus for the District's economic activity. (relevant to S.O. 3.2.1.2).
- 3.3.4** Provide a planning framework for the Frankton urban area that facilitates the integration of the various development nodes. (relevant to S.O. 3.2.1.3).
- 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).
- 3.3.6** Avoid additional commercial zoning that ~~will~~ is likely to undermine the function and viability of the Frankton commercial areas as the key service centre for the Wakatipu Basin, or which will undermine increasing integration between those areas and the industrial and residential areas of Frankton. (relevant to S.O. 3.2.1.3).
- 3.3.7** Provide a planning framework for the commercial core of Three Parks that enables large format retail development. (relevant to S.O. 3.2.1.4).
- 3.3.8** Avoid non-industrial activities not ancillary to industrial activities occurring within areas zoned for industrial activities. (relevant to S.O. 3.2.1.3 and 3.2.1.5).
- 3.3.9** Support the role township commercial precincts and local shopping centres fulfil in serving local needs by enabling commercial development that is appropriately sized for that purpose. (relevant to S.O. 3.2.1.5).
- 3.3.10** Avoid commercial rezoning that ~~would~~ is likely to undermine the key local service and employment function role that the centres outside of the Queenstown and Wanaka town centres, Frankton and Three Parks fulfil. (relevant to S.O. 3.2.1.5).

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3.3.11 Provide for a wide variety of activities and sufficient capacity within commercially zoned land to accommodate business growth and diversification. (relevant to S.O. 3.2.1.1, 3.2.1.2, 3.2.1.5, 3.2.1.6 and 3.2.1.9).

Climate Change

3.3.12 Encourage economic activity to adapt to and recognise opportunities and risks associated with climate change.

Urban Development

3.3.13 [Topic 3]

3.3.14 [Topic 3]

3.3.15 [Topic 3]

Heritage

3.3.16 [not appealed]

Natural Environment

3.3.17 [Topic 4]

3.3.18 [Topic 4]

3.3.19 [Topic 4]

Rural Activities

3.3.20 Enable continuation of existing farming activities and evolving forms of agricultural land use in rural areas except where those activities conflict with: ~~significant nature conservation values or degrade the existing character of rural landscapes.~~ (relevant to S.O. 3.2.1.7, 3.2.5.1 and 3.2.5.2)

- a. protection of the landscape values of Outstanding Natural Features or Outstanding Natural Landscapes;
- b. maintenance of the landscape character and maintenance or enhancement of the visual amenity values of Rural Character Landscape; or
- c. maintenance of significant conservation values or Ngai Tahu values, interests or customary resources.

3.3.21 ~~Recognise that commercial recreation and tourism related activities seeking to locate within the Rural Zone may be appropriate where these activities enhance the appreciation of~~

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landscapes, and on the basis they would protect, maintain or enhance landscape quality, character and visual amenity values. (relevant to S.O. 3.2.1.1, 3.2.1.8, 3.2.5.1 and 3.2.5.2)

3.3.22 Provide for rural living opportunities in areas identified on the District Plan maps as appropriate for rural living developments. (relevant to S.O. 3.2.1A, 3.2.1.7, 3.2.5.1 and 3.2.5.2)

3.3.23 Identify areas on the District Plan maps that are not within Outstanding Natural Landscapes or Outstanding Natural Features and that cannot absorb further change, and avoid residential development in those areas. (relevant to S.O. 3.2.1.8 and 3.2.5.2)

3.3.24 Ensure that cumulative effects of new subdivision and development for the purposes of rural living does not result in the alteration of the character of the rural environment to the point where the area is no longer rural in character. (relevant to S.O. 3.2.1.8, 3.2.5.1, and 3.2.5.2)

Ensure that the effects of cumulative subdivision and development for the purposes of Rural Living does not compromise:

a. the protection of the landscape values of Outstanding Natural Features and Outstanding Natural Landscapes;

b. the maintenance of the landscape character of Rural Character Landscapes; and

c. the maintenance or enhancement of the visual amenity values of Rural Character Landscapes.

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).

3.3.26 That subdivision and / or development be designed in accordance with best practice land use management so as to avoid or minimise adverse effects on the water quality of lakes, rivers and wetlands in the District. (relevant to S.O. 3.2.1.8, 3.2.4.1 and 3.2.4.3)

3.3.27 [Topic 4]

3.3.28 [Topic 4]

Landscapes

3.3.29 Identify the District's Outstanding Natural Features ~~Landscapes~~ and Outstanding Natural Landscapes ~~Features~~ on the District Plan maps. (relevant to S.O.3.2.5.1)

3.3.29x For Outstanding Natural Features and Outstanding Natural Landscapes, identify landscape values and landscape capacity:

a. in Schedule 21.22 where applicable and otherwise through assessment processes; and

b. in accordance with the landscape assessment matters in SP[x.x.x.y] and sound landscape assessment methodology.

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3.3.30 ~~Avoid adverse effects on the landscape and visual amenity values and natural character of the District's Outstanding Natural Landscapes and Outstanding Natural Features that are more than minor and or not temporary in duration. (relevant to S.O.3.2.5.1). Protect the landscape values of Outstanding Natural Features and Outstanding Natural Landscapes.~~

3.3.30x Avoid adverse effects on the landscape values of the District's Outstanding Natural Features and Outstanding Natural Landscapes from residential subdivision, use and development where there is little capacity to absorb change.

3.3.31 Identify the District's Rural Character Landscapes on the District Plan maps. (relevant to S.O.3.2.5.2).

3.3.31X For Rural Character Landscapes, identify landscape character to be maintained and visual amenity values to be maintained or enhanced and related landscape capacity:

- a. in Schedule 21.22 where applicable and otherwise through assessment processes;
- b. in accordance with the landscape assessment matters in SP x.x.x.x and sound landscape assessment methodology; and
- c. through associated District Plan rules setting measurable spatial or other limits, and related assessment matters, as to cumulative subdivision and development including as to location, quantity, density and design.

3.3.32x. In any Priority Area of any Rural Character Landscape whose landscape character and visual amenity values are identified in Schedule 21.22, ensure that new subdivision and development for the purposes of Rural Living:

- a. maintains that landscape character;
- b. enhances any visual amenity value that Schedule 21.22 specifies to be enhanced; and
- C. otherwise maintains those identified visual amenity values.

3.3.32y In any Rural Character Landscape that is not a Priority Area, or is a Priority Area that has not achieved all of the requirements of SP 3.3.32X, do not allow new subdivision or development for the purposes of Rural Living except where:

- a. according to the methodology in SP [x.x]:
 - i. a landscape character area for assessment purposes is identified at an appropriate scale including by mapping;
 - ii. the landscape character and visual amenity values of that landscape character area are identified; and
 - iii. the landscape capacity of that landscape character area is assessed so as to soundly inform a determination that the requirements of SP 3.3.24 are met; and
- b. the approval of new subdivision or development for the purposes of Rural Living maintains the landscape character and maintains or enhances the visual amenity values so identified in relation to that landscape character area.

3.3.XA **[to come new SPs for Values Identification Frameworks]**

3.3.XB **[to come new SP(s) for Landscape Assessment Methodology]**

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3.3.XC [to come revision of the monitoring SPs 3.3.32B and following]

3.3.32 Only allow further land use change in areas of the Rural Character Landscapes able to absorb that change and limit the extent of any change so that landscape character and visual amenity values are not materially degraded. (relevant to S.O. 3.2.1.9 and 3.2.5.2)

Cultural Environment

3.3.33 [not appealed]

3.3.34 [not appealed]

3.3.35 [not appealed]

Regionally Significant Infrastructure

3.3.36 Provide for the functional needs of regionally significant infrastructure while managing its adverse effects on the environment. (relevant to S.O. 3.2.1.9)

3.3.37 Protect regionally significant infrastructure by managing the adverse effects of incompatible activities. (relevant to S.O. 3.2.1.9)

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FOR COURT AND TOPIC 2 PARTIES

As amended by Environment Court interim decisions:

- **Topic 2 'Rural Landscapes' 19 December 2019.**

Key for Chapter 6:

Decisions text is black. All changes in underlined and ~~struck through~~ text.

Topic 2 Subtopic 9, Activities on Lakes and Rivers: provisions subject to consent documentation are in black underlined and ~~struck through~~ text and highlighted grey. [Not yet confirmed by the Court]

Topic 2 Subtopic 11, Regionally Significant Infrastructure: provisions subject to updated September 2019 consent documentation are in purple underlined and ~~struck through~~ text and highlighted grey. Includes definitions. [Not yet confirmed by the Court]

Non-Topic 2 provisions shown for context:

- The grey text in blue highlight is not Stage 1 PDP text. It is shown for information purposes only. The Council's decision in Stage 2 inserts the two policies into Chapter 6.

6 Landscapes and Rural Character

6.1 Purpose

The purpose of this chapter is to provide greater detail as to how the landscape, particularly outside urban settlements, will be managed in order to implement the strategic objectives and policies in Chapter 3. This chapter needs to be read with particular reference to the objectives in Chapter 3, which identify the outcomes the policies in this chapter are seeking to achieve. The relevant Chapter 3 objectives and policies are identified in brackets following each policy.

Landscapes have been categorised to provide greater certainty of their importance to the District, and to respond to regional policy and national legislation. Categorisations of landscapes will provide decision makers with a basis to consider the appropriateness of activities that have adverse effects on those landscapes.

6.2 Values

The District's landscapes are of significant value to the people who live in, work in or visit the District. The District relies in a large part for its social and economic wellbeing on the quality of the landscape, open spaces and the natural and built environment. Those landscapes also have inherent values, particularly to Tangata Whenua.

The landscapes consist of a variety of landforms created by uplift and glaciations, which include mountains, ice-sculpted rock, scree slopes, moraine, fans, a variety of confined and braided river systems, valley floors and lake basins. These distinct landforms remain easily legible and strong features of the present landscape.

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Indigenous vegetation also contributes to the quality of the District's landscapes. While much of the original vegetation has been modified, the colour and texture of indigenous vegetation within these landforms contribute to the distinctive identity of the District's landscapes.

The open space or open character of rural land ~~is~~ are key elements of the landscape character that can be vulnerable to degradation from subdivision, development and non-farming activities. The prevalence of large farms and landholdings contributes to the open space and rural working character of the landscape. The predominance of open space over housing and related domestic elements is a strong determinant of the character of the District's rural landscapes.

Some rural areas, particularly those closer to the Queenstown and Wanaka urban areas and within parts of the Wakatipu Basin and Upper Clutha Basin, have an established pattern of housing on smaller landholdings. The landscape character of these areas has been modified by vehicle accesses, earthworks and vegetation planting for amenity, screening and shelter, which have reduced the open space character exhibited by larger scale farming activities.

While acknowledging these rural areas have established rural living and development, and a substantial amount of further subdivision and development has already been approved in these areas, the landscape values of these areas are vulnerable to degradation from further subdivision and development. Areas where rural living development is at or is approaching the finite capacity of the landscape need to be identified if the District's distinctive rural landscape values are to be sustained. Areas where the landscape can accommodate sensitive and sympathetic rural living developments similarly need to be identified.

The lakes and rivers both on their own and, when viewed as part of the distinctive landscape, are a significant element of the national and international identity of the District and provide for a wide range of amenity and recreational opportunities. They are nationally and internationally recognised as part of the reason for the District's importance as a visitor destination, as well as one of the reasons for residents to belong to the area. Managing the landscape and recreational values on the surface of lakes and rivers is an important District Plan function.

Private, commercial and public operators rely on the use, occupation of and access to lakes and rivers for a wide range of activities including recreation, commercial recreation, tourism, transport services and infrastructure. These activities could also include both temporary and permanent structures on the surface, and on the margins, of lakes and rivers.

Activities on the surface of lakes and rivers and their supporting infrastructure can have adverse effects on nature conservation values, amenity values, the quality of the environment, navigational and congestion safety (including on other commercial operators and recreational users). New activities also have the potential to adversely affect established activities for example by detracting from the experience enjoyed by the users of existing activities and generating adverse safety effects.

6.3 Policies

6.3.1 Rural Landscape Categorisation

6.3.1.1 ~~Classify~~ Categorise the Rural Zoned landscapes in the District as:

- a. Outstanding Natural Feature (ONF);
- b. Outstanding Natural Landscape (ONL);
- c. Rural Character Landscape (RCL) (~~3.2.5.1, 3.2.5.2, 3.3.29, 3.3.31~~).

6.3.1.2 Exclude identified Ski Area Sub-Zones and the area of the Frankton Arm located to the east of the Outstanding Natural Landscape line as shown on the District Plan maps from the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories applied to the balance of the Rural Zone and from the policies of this chapter related to those categories. (3.2.1.1, 3.4.4.4, 3.3.21, 3.3.1A-C, 3.2.5.1A, 3.2.5.1B).

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6.3.1.3 Provide a separate regulatory regime for the Gibbston Valley (identified as the Gibbston Character Zone), Rural Residential Zone, Rural Lifestyle Zone, Resort Zones and the Special Zones within which the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories and the policies of this chapter related to those categories do not apply unless otherwise stated. (3.2.1.1, 3.2.1.7, 3.2.1.8, ~~3.2.5.2~~, 3.2.5.1A, 3.2.5.2B, 3.3.20 -24, 3.3.32).

6.3.1.4 Provide a separate regulatory regime for the Wakatipu Basin Rural Amenity Zone, within which the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories and the policies of this chapter related to those categories do not apply.

6.3.1.5 Classify the Open Space and Recreation zoned land located outside the Urban Growth Boundary as outstanding Natural Landscape, Outstanding Natural Feature or Rural Character Landscape, and provide a separate regulatory framework for the Open Space and Recreation Zones within which the remaining policies of this chapter do not apply.

6.3.1.6 In relation to Regionally Significant Infrastructure, the policies in 6.3.35 to 6.3.38 take precedence in the event of any conflict with other policies in this Chapter. (3.2.1.9, 3.2.5.1, 3.2.5.2, 3.3.30, 3.3.32, 3.3.36).

6.3.2 Managing Activities in the Rural Zone, the Gibbston Character Zone, the Rural Residential Zone and the Rural Lifestyle Zone

6.3.2.14 Avoid urban development and subdivision to urban densities in the rural zones. (3.2.2.1, 3.2.5.1, 3.2.5.2, 3.3.13-15, ~~3.3.23~~, 3.3.30, 3.3.32A).

6.3.2.25 Ensure that the location and direction of lights does not cause excessive glare and avoids unnecessary degradation of views of the night sky and of landscape character, including of the sense of remoteness where it is an important part of that character. (3.2.5.1, ~~3.2.5.2~~, 3.3.19, 3.3.20, 3.3.30, ~~3.3.32~~).

6.3.2.36 Ensure the District's distinctive landscapes are not degraded by production forestry planting and harvesting activities. (3.2.1.8, 3.2.5.1, ~~3.2.5.2~~, 3.3.19, 3.3.29, 3.3.31).

6.3.2.47 Enable continuation of the contribution low-intensity pastoral farming in the Rural Zone and viticulture in the Gibbston Character Zone on large landholdings makes to the District's landscape character. (3.2.1.7, 3.2.5.1, ~~3.2.5.2~~, 3.3.20).

6.3.2.58 Avoid indigenous vegetation clearance where it would significantly degrade the visual character and qualities of the District's distinctive landscapes. (3.2.1.8, 3.2.5.1, ~~3.2.5.2~~, 3.3.19, 3.3.30, 3.3.32A).

6.3.2.69 Encourage subdivision and development proposals to promote indigenous biodiversity protection and regeneration where the landscape and nature conservation values would be maintained or enhanced, particularly where the subdivision or development constitutes a change in the intensity in the land use or the retirement of productive farm land. (3.2.1.7, 3.2.4.1, 3.2.5.1, ~~3.2.5.2~~, 3.3.1A, 3.3.19, 3.3.20, 3.3.30, 3.3.32A).

6.3.2.710 Ensure that subdivision and development in the Outstanding Natural Landscapes and Rural Character Landscapes adjacent in proximity to an Outstanding Natural Feature or Outstanding Natural Landscape does not compromise ~~have more than minor adverse effects on the landscape quality, character and visual amenity values of that the relevant Outstanding Natural Feature(s) or Outstanding Natural Landscape.~~ (~~3.2.5.1, 3.3.30~~).

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6.3.2.814 Encourage any landscaping to be ecologically viable and consistent with the established character of the area. (3.2.1.8, 3.2.5.1, ~~3.2.5.2~~, 3.3.30, 3.3.32A).

6.3.3 Managing Activities ~~in~~ on Outstanding Natural Features Landscapes and ~~in~~ Outstanding Natural Landscapes Features

6.3.3.112 ~~Recognise that subdivision and development is inappropriate in almost all locations in Outstanding Natural Landscapes and on Outstanding Natural Features, meaning successful applications will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes will be reasonably difficult to see from beyond the boundary of the site the subject of application. (3.2.1.1, 3.2.5.1, 3.3.21, 3.3.30).~~

Recognise that subdivision and development is inappropriate on Outstanding Natural Features and in Outstanding Natural Landscapes unless:

a. landscape values are protected; and

b. in the case of any subsequent subdivision or development, all buildings and other structures and all changes to landform or other physical changes to the appearance of land will be reasonably difficult to see from beyond the boundary of the site in question.

6.3.3.213 Ensure that the protection of Outstanding Natural Features and Outstanding Natural Landscapes includes recognition of any values relating to cultural and historic elements, geological features and matters of cultural and spiritual value to tangata whenua, including tōpuni and wahi tūpuna. (3.2.3.1, 3.2.5.1A, B, 3.2.7.1, 3.3.16, 3.3.30, 3.3.33 - 35, Chapter 5).

6.3.3.314 ~~Recognise that large parts of the District's Outstanding Natural Landscapes include working farms and accept that viable farming involves activities that may modify the landscape, providing the quality and character of the Outstanding Natural Landscape is not adversely affected. (3.2.1.7, 3.2.1.8, 3.2.4.1, 3.2.5.1, 3.3.20, 3.3.30).~~

For working farms within Outstanding Natural Features and Outstanding Natural Landscapes:

a. recognise that viable farming involves activities that may modify the landscape; and

b. enable those activities in a way that is consistent with protecting the values of Outstanding Natural Features and Outstanding Natural Landscapes.

6.3.3.415 The landscape character and amenity values of Outstanding Natural Landscapes are a significant intrinsic, economic and recreational resource, such that new large scale renewable electricity generation or new large scale mineral extraction development proposals are not likely to be compatible with them. (3.2.5.1A, B, 3.3.25, ~~3.3.30~~).

6.3.3.516 Maintain the open landscape character of Outstanding Natural Features and Outstanding Natural Landscapes where it is open at present. (~~3.2.1.7, 3.2.1.8, 3.2.4.1, 3.2.5.1, 3.3.20-21, 3.3.30~~).

~~6.3.17 Locate, design, operate and maintain regionally significant infrastructure so as to seek to avoid adverse effects on Outstanding Natural Landscapes and Outstanding Natural Features, while acknowledging that location constraints and/or the nature of the infrastructure may mean that this is not possible in all cases. (3.2.1.9, 3.2.5.1, 3.3.25, 3.3.30). [Relocated to 6.3.6 and amended]~~

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~~6.3.18 — In cases where it is demonstrated that regionally significant infrastructure cannot avoid adverse effects on Outstanding Natural Landscapes and Outstanding Natural Features, avoid significant adverse effects and minimise other adverse effects on those landscapes and features. (3.2.1.9, 3.2.5.1, 3.3.25, 3.3.30). [Relocated to 6.3.6 and amended]~~

6.3.4 Managing Activities in Rural Character Landscapes

6.3.4.119 Recognise that subdivision and development is unsuitable in many locations in Rural Character Landscapes and successful applications will need to be, on balance, consistent with the objectives and policies of the Plan. (3.2.1.1, 3.2.1.7, 3.2.5.2A, B, 3.3.20- 24, 3.3.32A).

6.3.4.220 Encourage plan changes applying Rural Lifestyle and Rural Residential Zones to land as the appropriate planning mechanism to provide for any new rural lifestyle and rural residential developments in preference to ad-hoc subdivision and development and ensure these zones are located in areas where the landscape can accommodate the change. (3.2.1.8, 3.2.5.2A, B, 3.3.22, 3.3.24, 3.3.32A).

6.3.4.321 Require that proposals for subdivision or development for rural living in the Rural Zone take into account existing and consented subdivision or development in assessing the potential for adverse cumulative effects. (3.2.1.8, 3.2.5.2A, B, 3.3.23, 3.3.32A).

6.3.4.422 Have particular regard to the potential adverse effects on landscape character and visual amenity values where further subdivision and development would constitute sprawl along roads. (3.2.1.1, 3.2.1.7, 3.2.5.2A, B, 3.3.21 A-C, 3.3.24-25, 3.3.32A).

6.3.4.523 Ensure incremental changes from subdivision and development do not degrade landscape quality or character, or important views as a result of activities associated with mitigation of the visual effects of proposed development such as screen planting, mounding and earthworks. (3.2.1.1, 3.2.1.8, 3.2.5.2A, B, 3.3.21 A-C, 3.3.24, 3.3.32A).

~~6.3.24 — Locate, design, operate and maintain regionally significant infrastructure so as to seek to avoid significant adverse effects on the character of the landscape, while acknowledging that location constraints and/or the nature of the infrastructure may mean that this is not possible in all cases. (3.2.1.9, 3.2.5.2, 3.3.25, 3.3.32). [Relocated to 6.3.6 and amended]~~

~~6.3.25 — In cases where it is demonstrated that regionally significant infrastructure cannot avoid significant adverse effects on the character of the landscape, such adverse effects shall be minimised. (3.2.1.9, 3.2.5.2, 3.3.25, 3.3.32). [Relocated to 6.3.6 and amended]~~

6.3.4.626 Avoid adverse effects on visual amenity from subdivision, use and development that:

- a. is highly visible from public places and other places which are frequented by members of the public generally (except any trail as defined in this Plan); or
- b. forms the foreground for an Outstanding Natural Landscape or Outstanding Natural Feature when viewed from public roads. (3.2.1.1, 3.2.1.8, 3.2.5.1A, B, 3.2.5.2A, B, 3.3.20-21, 3.3.24-25, 3.3.30, 3.3.32).

6.3.4.727 In the Wakatipu Basin, avoid planting and screening, particularly along roads and boundaries that would degrade openness where such openness is an important part of its landscape quality or character. (3.2.1.1, 3.2.1.8, 3.2.5.2, 3.3.20-21, 3.3.24-25, 3.3.32).

6.3.4.828 In the upper Clutha Basin, subdivision and development maintains open landscape character where that is the existing character of the Rural Character Landscape. ~~have regard to the~~

LANDSCAPES AND RURAL CHARACTER 6

~~adverse effects from subdivision and development on the open landscape character where it is open at present. (3.2.1.1, 3.2.1.8, 3.2.5.2A, B, 3.3.1A-C, 3.3.20-21, 3.3.24-26, 3.3.32A).~~

- 6.3.4.929 Encourage development to utilise shared accesses and infrastructure, and to locate within the parts of the site where it will minimise disruption to natural landforms and to rural character. (3.2.1.1, 3.2.1.8, 3.3.1A-C ~~3.3.21~~, 3.3.24, 3.3.32).

6.3.5 Managing Activities on Lakes and Rivers

6.3.5.130 ~~Control~~ Manage the location, intensity and scale of buildings, structures on the surface and margins of water bodies including jetties, wharves, moorings and infrastructure on the surface and margins of water bodies recognising the functional needs of these activities, and the importance of lakes and rivers, including as a commercial recreation, tourism, transport and recreational resource, and ensure these structures are at a scale or in a location that, as far as practicable, maintain or enhance the landscape quality and character, and amenity values. (3.2.1.1, 3.2.4.1, 3.2.4.3, 3.2.5.1, 3.2.5.2, 3.3.19, 3.3.21A-C, 3.3.26, 3.3.30, 3.3.32A).

6.3.5.234 Recognise the character of the Frankton Arm including the established jetties and wharves, and provide for their maintenance, upgrade or expansion ~~on the basis that the visual qualities of the District's distinctive landscapes are maintained and enhanced. (3.2.4.3, 3.2.5.1, 3.3.30).~~

6.3.5.332 Recognise the urban character of Queenstown Bay and provide for structures and facilities on the surface and margins of Queenstown Bay within the Queenstown Town Centre Waterfront Subzone providing they protect, maintain or enhance the ability to appreciate ~~ion~~ of the District's distinctive landscapes. (3.2.1.1, 3.2.4.1, 3.2.4.4, 3.2.5.1, 3.2.5.2, 3.3.19, 3.3.21A-C, 3.3.30, 3.3.32).

6.3.5.433 Provide for appropriate commercial and recreational activities on the surface of water bodies that do not involve construction of new structures. (3.2.1.1, 3.2.4.4, 3.2.5.1, 3.2.5.2, 3.3.21A-C, 3.3.30, 3.3.32).

6.3.6 Managing Regionally Significant Infrastructure

6.3.6.1 Locate, design, operate and maintain regionally significant infrastructure so as to seek to avoid adverse effects on Outstanding Natural Landscapes Features and Outstanding Natural Features-Landscapes, while acknowledging that functional needs location constraints and/or the nature of the infrastructure may mean that this is not practicable possible in all cases. (3.2.1.9, 3.2.5.1, 3.2.6, 3.3.25, 3.3.30, 3.3.36).

6.3.6.2 In cases where it is demonstrated that regionally significant infrastructure cannot avoid adverse effects on Outstanding Natural Landscapes Features and Outstanding Natural Features-Landscapes, avoid significant adverse effects so as to maintain the values that contribute to the outstanding nature, and remedy or mitigate minimise other adverse effects on those landscapes and features. (3.2.1.9, 3.2.5.1, 3.2.6, 3.3.25, 3.3.30, 3.3.36).

6.3.6.3 In relation to Rural Character Landscapes and other amenity landscapes, locate, design, operate and maintain regionally significant infrastructure so as to seek to avoid significant adverse effects on the character of the landscape, while acknowledging that functional needs location constraints and/or the nature of the infrastructure may mean that this is not practicable possible in all cases. (3.2.1.9, 3.2.5.2, 3.2.6, 3.3.25, 3.3.32, 3.3.36).

6.3.6.4 In cases where it is demonstrated that regionally significant infrastructure cannot avoid significant adverse effects on the character of the landscape, such adverse effects shall be remedied or mitigated minimised. (3.2.1.9, 3.2.5.2, 3.2.6, 3.3.25, 3.3.32, 3.3.36).

LANDSCAPES AND RURAL CHARACTER 6

Chapter 2: Definitions

<p>Electricity Sub-transmission Infrastructure</p>	<p>Means electricity infrastructure which conveys electricity between:</p> <ul style="list-style-type: none"> a. the National Grid and zone substations; b. renewable energy generation sources and zone substations; or c. zone substations.
<p>Open Space</p>	<p>Means any land or space which is not substantially occupied by buildings. For the <u>Open Space Zone – Landscape Protection, and the Open Space and Recreation Zone</u>, means any land or space and which provides benefits to the general public as an area of visual, cultural, educational, or recreational amenity values.</p> <p><u>Excludes the presence of centre pivot and linear irrigators.</u></p>
<p>Openness and Open Character</p>	<p>Means any land or space which is not substantially occupied by buildings, structures or trees. The land is likely to include and be characterised by either one of or both of exotic pasture, indigenous grasslands and grey shrubland.</p> <p><u>Excludes the presence of centre pivot and linear irrigators.</u></p>
<p>Regionally Significant Infrastructure</p>	<p>Means:</p> <ul style="list-style-type: none"> a. Renewable electricity generation activities undertaken by an electricity operator; and b. The national grid; and c. electricity sub-transmission infrastructure; and d. significant electricity distribution infrastructure as shown on the <u>District Plan Maps; and</u> e. Telecommunication and radio communication facilities; and f. State highways; and g. Queenstown and Wanaka airports and associated navigation infrastructure.

LANDSCAPES AND RURAL CHARACTER 6

Other Amendments (Topic 2 Subtopic 11 Infrastructure):

<p>Consequential changes to District Plan Maps</p>	<ol style="list-style-type: none"> 1. Delete <i>“Aurora Distribution Lines – For information only”</i> from the District Plan Maps Legend 2. Add the following to the District Plan Maps Legend: <ol style="list-style-type: none"> a. <i>“Electricity Sub-transmission Infrastructure”</i> b. <i>“Significant Electricity Distribution Infrastructure”</i> <p>Each type to be differentiated by different colour. Aurora suggests bright green for Electricity Sub-transmission Infrastructure and red for Significant Electricity Distribution Infrastructure as this is consistent with the Aurora GIS information available online so may reduce opportunities for confusion.</p> <p>The three significant electricity distribution infrastructure lines to be shown on the plan maps are:</p> <ul style="list-style-type: none"> • Wanaka to Treble Cone • Maungawera to Makarora • Cardrona substation to the Cardrona Transformer at skifield base (pole 17698)
<p>Consequential changes to District Plan Maps</p>	<p>Recommended modification within ambit of Clause 16(2) Schedule 1 of the RMA.</p> <p>Amend the annotation on the District Plan Maps Legend from ‘Transmission Corridor’ to ‘The National Grid’, in order to better distinguish between the National Grid infrastructure and the new annotations of Electricity Sub-transmission Infrastructure’ and ‘Significant Electricity Distribution Infrastructure’.</p>

APPENDIX 2

Colonial Vineyard Limited v Marlborough District Council evaluation guidance

A. General requirements

1. A district plan (change) should be designed to accord with¹ - and assist the territorial authority to carry out – its functions² so as to achieve the purpose of the Act³.
2. The district plan (change) must also be prepared in accordance with any regulation⁴ (~~there the QLDC is not~~ currently affected by the Planning Standards~~are none at present~~) and any direction given by the Minister for the Environment⁵.
3. When preparing its district plan (change) the territorial authority must give effect to⁶ any national policy statement or New Zealand Coastal Policy Statement⁷.
4. When preparing its district plan (change) the territorial authority shall:
 - a. Have regard to any proposed regional policy statement⁸;
 - b. Give effect to any operative regional policy statement⁹.
5. In relation to regional plans:
 - a. The district plan (change) must not be inconsistent with an operative regional plan for any matter specified in section 30(1) or a water conservation order¹⁰; and
 - b. Must have regard to any proposed regional plan on any matter of regional significance etc¹¹.
6. When preparing its district plan (change) the territorial authority must also:
 - Have regard to any relevant management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register and to various fisheries regulations¹² to the extent that their context has a bearing on resource management issues of the district; and to consistency with plans and proposed plans of adjacent territorial authorities¹³
 - Take into account any relevant planning document recognised by an iwi authority¹⁴; and

¹ Section 74(1) of the Act

² As described in section 31 of the Act

³ Sections 72 and 74(1) of the Act

⁴ Section 74(1) of the Act

⁵ Section 74(1) of the Act added by section 45(1) Resource Management Amendment Act 2005.

⁶ Section 75(3) RMA

⁷ The reference to “any regional policy statement” in the Rosehip list here has been deleted since it is included in (3) below which is a more logical place for it.

⁸ Section 74(2)(a)(i) of the RMA

⁹ Section 75(3)(c) of the Act [as substituted by section 46 Resource Management Amendment Act 2005].

¹⁰ Section 75(4) of the Act [as substituted by section 46 Resource Management Amendment Act 2005]

¹¹ Section 74(2)(a)(ii) of the Act

¹² Section 74(2)(b) of the Act

¹³ Section 74(2)(c) of the Act

¹⁴ Section 74(2A) of the Act

- Not have regard to trade competition¹⁵ or the effects of trade competition;
7. The formal requirement that a district plan (change) must¹⁶ also state its objectives, policies and the rules (if any) and may¹⁷ state other matters.
- B. Objectives [the section 32 test for objectives]
8. Each proposed objective in a district plan (change) is to be evaluated by the extent to which it is the most appropriate way to achieve the purpose of the Act¹⁸.
- C. Policies and methods (including rules) [the section 32 test for policies and rules]
9. The policies are to implement the objectives, and the rules (if any) are to implement the policies¹⁹;
 10. Each proposed policy or method (including each rule) is to be examined, having regard to its efficiency and effectiveness, as to whether it is the most appropriate method for achieving the objectives²⁰ of the district plan taking into account:
 - i. The benefits and costs of the proposed policies and methods (including rules); and
 - ii. The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods²¹; and
 - iii. If a national environmental standard applies and the proposed rule imposes a greater prohibition or restriction than that, then whether that greater prohibition or restriction is justified in the circumstances²².
- D. Rules
11. In making a rule the territorial authority must have regard to the actual or potential effect of activities on the environment²³.
 12. Rules have the force of regulations²⁴.
 13. Rules may be made for the protection of property from the effects of surface water, and these may be more restrictive²⁵ than those under the Building Act 2004.
 14. There are special provisions for rules about contaminated land²⁶.

¹⁵ Section 74(3) of the Act as amended by section 58 Resource Management (Simplifying and Streamlining) Act 2009

¹⁶ Section 75(1) of the Act

¹⁷ Section 75(2) of the Act

¹⁸ Section 74(1) and Section 32(3)(a) of the Act

¹⁹ Section 75(1)(b) and (c) of the Act (also section 76(1))

²⁰ Section 32(3)(b) of the Act

²¹ Section 32(4) of the RMA

²² Section 32(3A) of the Act added by section 13(3) Resource Management Amendment Act 2005.

²³ Section 76(3) of the Act.

²⁴ Section 76(2) RMA

²⁵ Section 76(2A) RMA

²⁶ Section 76(5) RMA as added by section 47 Resource Management Amendment Act 2005 and amended in 2009

15. There must be no blanket rules about felling of trees²⁷ in any urban environment²⁸.

E. Other statutes:

16. Finally territorial authorities may be required to comply with other statutes."

[Underlining in original to identify changes resulting from the 2009 amendment to the Act]

The Colonial Vineyard decision predated the 2013 amendment to the Act coming into effect. Accordingly, the tests poised by the Environment Court need to be read subject to the effect of that Amendment Act, specifically:

Points A1 and 2 need to be read subject to the amended section 74(1) of the Act which states:

"A territorial authority must prepare and change its District Plan in accordance with –

- a. Its functions under section 31; and
- b. The provisions of Part 2; and
- c. A direction given under section 25A(2) [by the Minister for the Environment]; and
- d. Its obligation (if any) to prepare an evaluation report in accordance with section 32; and
- e. Its obligation to have particular regard to an evaluation report prepared in accordance with section 32; and
- f. Any regulations".

Point C10 needs to be read subject to the amended section 32²⁹ including in particular:

- "(1) An evaluation report required under this Act must - ...
- a. Examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by –
 - i. Identifying other reasonably practicable options for achieving the objectives; and
 - ii. Assessing the efficiency and effectiveness of the provisions in achieving the objectives; and
 - iii. Summarising the reasons for deciding on the provisions; and
 - ...
 - (2) An assessment under subsection (1)(b)(ii) must –
 - a. identify and assess the benefits and costs of the environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for –
 - i. Economic growth that are anticipated to be provided or reduced; and
 - ii. Employment that are anticipated to be provided or reduced; and
 - b. If practicable, quantify the benefits and costs referred to in paragraph (a); and
 - c. Assess the risk of acting or not acting if there is uncertainty or insufficient information about the subject matter of the provisions....
 - (4) If the proposal will impose a greater prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is

²⁷ Section 76(4A) RMA as added by the Resource Management (Simplifying and Streamlining) Amendment Act 2009.

²⁸ Section 76(4B) RMA – this "Remuera rule" was added by the Resource Management (Simplifying and Streamlining) Amendment Act 2009

²⁹ Introduced by section 70 of the Resource Management Amendment Act 2013

justified the circumstances of each region or district in which the prohibition or restriction would have effect.”

APPENDIX 3

Consent Order re Policy 3.2.4 PRPS

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

IN THE MATTER of the Resource Management Act 1991
AND of appeals under clause 14 of Schedule 1 to
the Act
BETWEEN ALLIANCE GROUP LIMITED
(ENV-2016-CHC-112)
and other appeals listed in the schedule on
the last page
AND OTAGO REGIONAL COUNCIL
Respondent

Before: Environment Judge J R Jackson
sitting alone pursuant to section 279 of the Act

Held: Judicial Settlement Conference in Dunedin on Thursday 27
February 2020

Appearances: A J Logan, T Sefton, A Dawe, J Adams and L Hawkins for the Otago
Regional Council
L Anderson QC & R McGrouther for Port Otago Ltd
W Anglin for Wise Response Incorporated
R Hill for Real Journeys Ltd, Ayrburn Farm Development Ltd and
Bridesdale Farm Developments Ltd, Darby Planning LP
Henley Downs Land Holdings Ltd and Remarkables Park Ltd &
Queenstown Park Ltd
S Scott for Queenstown Lakes District Council
R Wolt for Queenstown Airport Corp Ltd
P Walker & J St John for Oceana Gold (New Zealand) Ltd
P Anderson for Royal Forest and Bird Protection Society of
New Zealand Incorporated

Date of Order: 6 March 2020

CONSENT ORDER

INTRODUCTORY TEXT TO CHAPTER 3 AND POLICY 3.2.4

A: Under section 279(1)(b) of the Resource Management Act 1991, the Environment
Court, by consent, orders that:



- (1) the Otago Regional Council is directed to amend the proposed Otago Regional Policy Statement as set out in Appendix 1 to this order;
- (2) the appeals are otherwise dismissed.

B: Under section 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] These proceedings relate to outstanding appeals about the (partly operative) proposed Otago Regional Policy Statement ("ORPS").

[2] The court has read and considered the Otago Regional Council's ("ORC") application for directions dated 5 April 2019, the consent memorandum and memorandum of the parties dated 20 August 2019, reply memorandum for the ORC dated 21 August 2020 and consent memorandum dated 27 February 2020.

[3] The following parties gave notice of intention to become parties to the application for directions by the ORC:

- Port Otago Ltd;
- Royal Forest and Bird Protection Society of New Zealand Inc;
- Queenstown Lakes District Council;
- Oceana Gold New Zealand Ltd;
- Real Journeys Ltd. Darby Planning LP; Henley Downs Land Holdings Ltd and Remarkables Park Ltd;
- Ministry of Energy and Resources;
- Queenstown Airport Corporation;
- Trustpower Ltd;
- Wise Response Inc; and
- Environmental Defence Society Inc.

[4] No other person has given notice of intention to become a party.



[5] The Environment Court issued a decision¹ on 15 March 2019. The orders were:

A: Subject to Order [C], under section 279(1) and section 290 of the Resource Management Act I direct that unless an application is made under [C] by 5 April 2019, the Otago Regional Council should by consent amend:

- (1) Chapter 3 of the proposed Otago Regional Policy Statement as set out in Schedule "A" to this decision; and
- (2) The "Implementation and Glossary" as set out in Schedule "B".

B: I rule that:

- (1) the parties have not responded to all the matters raised in the Minute of 31 August 2018; and
- (2) *prima facie* the purpose of the Act is not achieved by the proposed Otago Regional Policy Statement when read as a whole with the partly operative RPS.

C: The court reserves leave for any party to apply to remedy any possible defects, incompleteness or uncertainty in the pORPS identified in the Minute of 31 August 2018 or raised in the Reasons below either by:

- (1) amending proposed Chapter 3; or
- (2) by directions under section 293 of the Act.

D: I direct that by Friday 29 March 2019 the Council must lodge a memorandum advising whether there are any outstanding matters in relation to the proposed Otago Regional Policy Statement.

[6] Order B was appealed to the High Court, and that is yet to be determined.

[7] The ORC applied for leave under Order C to make two changes to the proposed ORPS:

- to Policy 3.2.4;
- to the introductory words to Chapter 3.

I will deal with Policy 3.2.4 first since it is a simpler issue.



Policy 3.2.4

[8] The court was concerned that the (laudable) policy requiring identification of the values of an ONL (or feature) also carried through into a policy requiring protection of only those values whereas s 6(b) RMA requires protection of the landscape as a whole.

[9] A further consent memorandum was filed following the Judicial Settlement Conference where the parties agreed to the addition of the words:

Policy 3.2.4 Managing outstanding natural features, landscapes and seascapes

Protect, enhance ~~and~~ or restore outstanding natural features, landscapes and seascapes, by all of the following:

~~a) In the coastal environment, avoiding adverse effects on the outstanding values (even if those values are not themselves outstanding) that contribute to of the natural feature, landscape or seascape being outstanding;~~

~~ba) Avoiding adverse effects on Beyond the coastal environment, maintaining those the outstanding values (even if those values are not themselves outstanding) that contribute to which contribute to the significance of the natural feature, landscape or seascape being outstanding;~~

~~cb) Avoiding, remedying or mitigating other adverse effects;~~

~~c) —Recognising and providing for the positive contributions of existing introduced species to those values;~~

~~d) —Controlling the adverse effects of pest species, preventing their introduction and reducing their spread;~~

~~de) —Encouraging enhancement of those areas and values which that contribute to the significance of the natural feature, landscape or seascape.~~

[10] That looks a little confusing. The underlined words represent the recent change and the colours represent earlier steps in the development of the policy. I consider the change(s) are appropriate.

The Introduction to Chapter 3

[11] To allay the concerns of the court the ORC – supported by most of the parties – proposed to add to the introduction of Chapter 3 as follows (additions in red):



“Part B Chapter 3 Otago has high quality natural resources and ecosystems

People and communities need to sustainably manage the environment. Safeguarding the life-supporting capacity of natural resources and recognising the intrinsic values of ecosystems are essential to provide for the current and future wellbeing of people and communities.

The economy, particularly primary production, tourism, and mineral and petroleum exploration and extraction, strongly relies on the quantity and quality of natural resources and the ecosystem services they provide.

This chapter begins with the recognition and maintenance of all natural resources. The second part focuses on the identification, protection, and enhancement of natural resources that are nationally or regionally important. This chapter is not concerned with sustaining mineral resources for future generations.

Chapter 3 contains provisions to implement sections 5(2)(a), (b) and (c) of the Resource Management Act 1991. It also recognises and provides for matters which are of national importance under section 6 (apart from sections 6(e), (f), (g) and (h) which are covered by Chapter 2, Subchapter 5.2 and Subchapter 4.1 respectively) and matters which require the protection as special resources under the New Zealand Coastal Policy Statement and National Policy Statement for Freshwater Management.

The objectives and policies in this chapter (where relevant) are to be achieved at the same time as all other objectives and policies in this Regional Policy Statement. Where there is a conflict, the following policies shall prevail over the policies in this chapter (to the extent identified in those policies):

- (a) Policy 4.3.4 Adverse effects of nationally and regionally significant infrastructure (all policies under objective 3.2 except policy 3.2.12).
- (b) Policy 4.3.6 The National Grid (all policies under objectives 3.1 and 3.2).
- (c) Policy 4.3.7 Ports [to be confirmed – subject to High Court appeal]².
- (d) Policy 5.4.8 Adverse effects from mineral and petroleum exploration extraction and processing (all policies under objective 3.2, except for policy 3.2.12). [To be confirmed - agreed at mediation and subject to Environment Court determination]³].

[12] The court continued to have difficulties with that stating in a Minute³:

[5] The parties consider that the amendment to the introductory text clarifies the relationship between chapter 3 and the other provisions of the RPS. With respect, at first sight it still does not meet a test of setting bottom-lines as discussed in *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited*⁴ (“King Salmon”).

² The highlighted yellow text is to be finalised once all appeal rights have been exhausted. Minute to parties dated 29 August 2019.

³ *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited* [2014] NZSC 38.



[6] What concerns me about the ORPS as it stands is that first it does not acknowledge the unpalatable truth that at least some of the time not all the objectives of the plan can be achieved or policies implemented. As a matter of law, that is possibly irrelevant, although in practice it will cause difficulties.

[7] Second and following on from that is that the ORPS is basically another (outdated) "overall subjective judgment plan". It is like a smorgasbord which a decision-maker can dip into according to its predilections. That approach has been discredited by *King Salmon* which confirmed that the RMA does introduce (qualified) bottom-lines. In my view the task of an RPS and instruments under it is to spell out, in ever-increasing detail, when those bottom-lines might or might not apply.

[8] Thus for example I have no particular difficulty with the carve outs for ports, the natural grid and important infrastructure.

[9] However, for all other activities the overall judgment approach just seems to be endorsed by the proposed additional words to the introduction of chapter 3 and I am disinclined to approve them without hearing from counsel and/or receiving evidence as to why I am wrong. I simply fail to see how avoidance policies such as 3.2.2(a) and (b) can be achieved at the same time as all other objectives and policies in the ORPS.

[13] The parties discussed alternative forms of wording – on what is shown above – for the introduction to Chapter 3. However at the conference they were unanimous that the ORPS does not represent an overall judgment approach and that extra words are unnecessary.

[14] I am not wholly persuaded by counsel but I think I should accept what they say. There is a public interest in finality in planning documents and it is really my qualms only which have held up the complete coming into force of this important document for too long.

[15] I am now inclined to accept that, at a stretch, the ORPS can be seen as according with Part 2 RMA. Ultimately in the absence of a dispute between the parties, any tentative view of the court about the relationship between objectives and policies and especially on the maintenance of indigenous biodiversity are irrelevant. Accordingly I accept that there is no need to add extra words to Chapter 3 Introduction.



Orders

[16] The court is making these orders under section 279(1) of the Act, such orders being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The court understands for present purposes that:

- (a) all parties to the proceedings have executed the memoranda requesting these orders;
- (b) all parties are satisfied that all matters proposed for the court's endorsement fall within the court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2 as particularised in the objectives and policies in the Plan.

[17] Subject to the outstanding appeals to the High Court (and beyond) this order appears to resolve all outstanding issues on the PORPS. If I am wrong about that the ORC should advise the Registrar immediately.



J R Jackson
Environment Judge



APPENDIX 1

Policy 3.2.4 Managing outstanding natural features, landscapes and seascapes

Protect, enhance *and or* restore outstanding natural features, landscapes and seascapes, by all of the following:

- a) ~~In the coastal environment, avoiding adverse effects on the outstanding values (even if those values are not themselves outstanding) that contribute to of the natural feature, landscape or seascape being outstanding;~~
- ba) ~~Avoiding adverse effects on~~ Beyond the coastal environment, maintaining those ~~the outstanding values (even if those values are not themselves outstanding) that contribute to~~ ~~which contribute to the significance of~~ the natural feature, landscape or seascape ~~being outstanding;~~
- cb) Avoiding, remedying or mitigating other adverse effects;
- ~~c) Recognising and providing for the positive contributions of existing introduced species to those values;~~
- ~~d) Controlling the adverse effects of pest species, preventing their introduction and reducing their spread;~~
- de) Encouraging enhancement of those areas and values ~~which that~~ contribute to the significance of the natural feature, landscape or seascape.



Schedule

AYRBURN FARM DEVELOPMENT LIMITED AND BRIDESDALE FARM DEVELOPMENTS LIMITED (ENV-2016-CHC-108)	PIONEER ENERGY LIMITED (ENV-2016-CHC-121)
CLUTHA DISTRICT COUNCIL (ENV-2016-CHC-105)	PORT OTAGO LIMITED (ENV-2016-CHC-86)
DARBY PLANNING LP (ENV-2016-CHC-110)	QUEENSTOWN AIRPORT CORPORATION LIMITED (ENV-2016-CHC-117)
DUNEDIN CITY COUNCIL (ENV-2016-CHC-084)	RAVENSDOWN LIMITED (ENV-2016-CHC-85)
ENVIRONMENTAL DEFENCE SOCIETY INCORPORATED (ENV-2016-CHC-122)	REAL JOURNEYS LIMITED (ENV-2016-CHC-109)
FEDERATED FARMERS OF NEW ZEALAND INCORPORATED (ENV-2016-CHC-120)	REMARKABLES PARK LIMITED AND QUEENSTOWN PARK LIMITED (ENV-2016-CHC-119)
HENLEY DOWNS LAND HOLDINGS LIMITED (ENV-2016-CHC-111)	ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NEW ZEALAND INCORPORATED (ENV-2016-CHC-102)
HORTICULTURE NEW ZEALAND (ENV-2016-CHC-114)	TRANSPower NEW ZEALAND LIMITED (ENV-2016-CHC-113)
OCEANA GOLD NEW ZEALAND LIMITED (ENV-2016-CHC-103)	TRUSTPOWER LIMITED (ENV-2016-CHC-82)
OTAGO WATER RESOURCE USERS GROUP (ENV-2016-CHC-124)	WISE RESPONSE INCORPORATED (ENV-2016-CHC-106)



APPENDIX 4

Procedural Decision and consent order for rest of Chapter 3 PRPS

BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

Decision No. [2018] NZEnvC42

IN THE MATTER of the Resource Management Act 1991
AND of appeals pursuant to clause 14 of the First
Schedule to the Act
BETWEEN ALLIANCE GROUP LIMITED
(ENV-2016-CHC-112)
and other appeals listed in the schedule on
the last page
Appellants
AND OTAGO REGIONAL COUNCIL
Respondent

Court: Environment Judge J R Jackson

Hearing: In Chambers at Christchurch

Date of Decision: 15 March 2019

Date of Issue: 15 March 2019

PROCEDURAL DECISION

A: Subject to Order [C], under section 279(1) and section 290 of the Resource Management Act I direct that unless an application is made under [C] by **5 April 2019**, the Otago Regional Council should by consent amend:

- (1) Chapter 3 of the proposed Otago Regional Policy Statement as set out in Schedule "A" to this decision; and
- (2) The "Implementation and Glossary" as set out in Schedule "B".



B: I rule that:

- (1) the parties have not responded to all the matters raised in the Minute of 31 August 2018; and
- (2) *prima facie* the purpose of the Act is not achieved by the proposed Otago Regional Policy Statement when read as a whole with the partly operative RPS.

C: The court reserves leave for any party to apply to remedy any possible defects, incompleteness or uncertainty in the pORPS identified in the Minute of 31 August 2018 or raised in the Reasons below either by:

- (1) amending proposed Chapter 3; or
- (2) by directions under section 293 of the Act.

D: I direct that by **Friday 29 March 2019** the Council must lodge a memorandum advising whether there are any outstanding matters in relation to the proposed Otago Regional Policy Statement.

REASONS

Introduction

[1] On 6 July 2018 the Otago Regional Council (“ORC”) lodged a consent memorandum with the Registrar about Chapter 3 of the proposed Otago Regional Policy Statement.

[2] In June and July 2018 the court issued consent orders in respect of Chapters 4 and 5 (subject to outstanding, unresolved appeals on Chapter 5).

[3] In a Minute dated 31 August 2018, I asked parties to consider (amongst other matters) issues in relation to objectives 3.1 and 3.2 as well as policies 3.1.7 and 3.2.12(a).

[4] The ORC has responded on some matters (and raised a further issue) in memoranda dated 28 September 2018, 19 November 2018 and 11 January 2019 but has simply omitted to act on others in the Minute of 31 August 2018.



[5] Despite that, it seems that the ORC has slightly jumped the gun. On 12 December 2018, the ORC approved part of the proposed Regional Policy Statement to become operative from 14 January 2019. From this point I will refer to the partly operative regional policy statement as “the PORPS” and the proposed regional policy statement as “the pORPS”, and both together as “the RPS”. I emphasise that a Regional Council is entitled to do that, but wish to record that it may have created other problems for itself.

Unresolved issues

Relationship between the chapters of the RPS

[6] The main issue is the relationship between the chapters of the pORPS as raised in [23] and [24] of the court’s Minute of 31 August 2018 and not responded to.

[7] The issue is of some importance given that (operative) objective OS 3 is that “sufficient land is managed and protected for economic production”. To achieve the purpose of the RMA this would at first sight need to be subject (I tentatively assume) to the “bottom lines” required by (*inter alia*) section 6 RMA as particularised in Chapter 3 of the PORPS. The court suggested, in [5] of the 31 August 2018 Minute, an answer to this issue (but it is not a very robust solution since it relies on an explanation rather than an amended objective).

[8] The court is aware of the two sentences in Part A (page 9 of the partly operative ORPS) which state: “All provisions of the RPS must be considered together. The outcomes interrelate, and no hierarchy exists between them”. However, “considering” provisions together is not the same as “achieving objectives at the same time”, which is what (it appears) is required under section 5 of the Act and under the NZCPS. The difficulty is that an objective or policy which merely needs to be considered may be rejected whereas the “bottom-lines” in section 52(b) and section 66(c) for example need to be achieved. It seems to me that on its face the RPS does not achieve the purpose of the Act.

[9] Also, Chapter 3 seems to equate all values in sections 5 and 6 (except for section 6(e) which has its own chapter). The various differences in approach in section 6 RMA



– having regard to appropriateness in some cases, significance in others – is not reflected in the policies of the RPS.

Other issues raised in the Minute of 31 August 2018

[10] The parties do not appear to have answered the court's other queries in its Minute of 31 August 2018. In particular (referring to the relevant paragraphs of that Minute):

- [7] soil values (policy 3.1.7); and
- [8] to [11] surf breaks.

The explanation in the ORC memorandum of 11 January 2019

[11] In its 11 January 2019 memorandum the ORC spent about nine pages explaining policy 5.4.8(2).

[12] I do not understand the explanation and I still do not understand the policy. However, my current intention is to approve the policy, noting my concern that uncertainty in the policy may need to allow resort to Part 2 of the Act in difficult cases.

Outstanding values of ONLs

[13] I raise a question about the *vires* of these policies. The most relevant policies in the proposed RPS are contained in the consent memorandum ("cm") of the parties to appeals on that document. I quote the marked-up version along with the decisions version ("dv") policies that were appealed but eventually unchanged from the dv. The policies are:

(dv) 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 in Schedule 3.

(cm) Policy 3.2.4 Managing outstanding natural features, landscapes and seascapes

Protect, enhance and or restore outstanding natural features, landscapes and seascapes, by all of the following:

- a) In the coastal environment, avoiding adverse effects on the outstanding values of the natural feature, landscape or seascape;



- ~~ba)~~ ~~Avoiding adverse effects on Beyond the coastal environment, maintaining those the outstanding values which contribute to the significance of the natural feature, landscape or seascape;~~
- ~~cb)~~ ~~Avoiding, remedying or mitigating other adverse effects;~~
- ~~c)~~ ~~Recognising and providing for the positive contributions of existing introduced species to those values;~~
- ~~d)~~ ~~Controlling the adverse effects of pest species, preventing their introduction and reducing their spread;~~
- ~~de)~~ ~~Encouraging enhancement of those areas and values which that contribute to the significance of the natural feature, landscape or seascape.~~

(dv) Policy 3.2.5 Identifying highly valued natural features, landscapes and seascapes
Identify natural features, landscapes and seascapes, which are highly valued for their contribution to the amenity or quality of the environment but which are not outstanding, using the attributes in Schedule 3.

(cm) Policy 3.2.6 Managing highly valued natural features, landscapes and seascapes
Protect Maintain or enhance highly valued natural features, landscapes and seascapes by all of the following:

- a) Avoiding significant adverse effects on those values which that contribute to the high value of the natural feature, landscape or seascape ;
- b) Avoiding, remedying or mitigating other adverse effects ;
- ~~c)~~ ~~Recognising and providing for positive contributions of existing introduced species to those values;~~
- ~~d)~~ ~~Controlling the adverse effects of pest species, preventing their introduction and reducing their spread;~~
- ~~ce)~~ ~~Encouraging enhancement of those values which that contribute to the high value of the natural feature, landscape or seascape.~~

The issue relates to policy 3.2.4 on outstanding natural landscapes (“ONLs”) and features. This policy does not protect ONLs in themselves but their “outstanding values”. That immediately raises a question¹ about how the “outstanding values” of an ONL can be isolated and whether they should be. I would have preferred submissions on the legality and/or completeness/certainty of this policy. It seems to me that an outstanding ... “landscape” under the RMA may be more than the sum of its values.

Are there other outstanding issues?

¹

I am indebted to my colleague Judge Hassan for asking this question (in proceedings on the proposed Queenstown Lakes District Plan).



[14] Finally, the outstanding consent memoranda that were on hold and are now being (provisionally) resolved by the court are 'Chapter 3' and 'Implementation and Glossary'. The Council needs to advise the court if there are further outstanding topics (other than those awaiting decisions). For example an asterisk to the PORPS refers to various methods still being subject to challenge.

[15] I also note that, the Council's 11 January 2019 memorandum confirmed the final wording of objective 3.1. This memorandum was not, however, signed by all the parties. The Council confirmed that all parties who had an interest in Chapter 3 were consulted but I will reserve leave for any party to advise the court if they have any issues with the final wording.

Reservation of leave

[16] I will reserve leave for any party to apply further if they wish to resolve any one or more of the issues raised above.

[17] I should add that I do not wish to be seen as encouraging (or discouraging) applications under the leave reserved in Order [C]. Even if parties consider after reading this decision that the RPS is incomplete, or uncertain (or possibly illegal) in parts, they may prefer to raise these issues in the future in more focused cases where the alleged defect is squarely before the relevant local authority or the courts. Indeed that may be a preferable course of action. However fairness to parties who have not had the time to think about these issues, or the expertise to guide them, requires that I reserve such leave.

For the court:



J R Jackson
Environment Judge



Schedule

AYRBURN FARM DEVELOPMENT LIMITED AND BRIDESDALE FARM DEVELOPMENTS LIMITED (ENV-2016-CHC-108)	PIONEER ENERGY LIMITED (ENV-2016-CHC-121)
CLUTHA DISTRICT COUNCIL (ENV-2016-CHC-105)	PORT OTAGO LIMITED (ENV-2016-CHC-86)
DARBY PLANNING LP (ENV-2016-CHC-110)	QUEENSTOWN AIRPORT CORPORATION LIMITED (ENV-2016-CHC-117)
DUNEDIN CITY COUNCIL (ENV-2016-CHC-084)	RAVENSDOWN LIMITED (ENV-2016-CHC-85)
ENVIRONMENTAL DEFENCE SOCIETY INCORPORATED (ENV-2016-CHC-122)	REAL JOURNEYS LIMITED (ENV-2016-CHC-109)
FEDERATED FARMERS OF NEW ZEALAND INCORPORATED (ENV-2016-CHC-120)	REMARKABLES PARK LIMITED AND QUEENSTOWN PARK LIMITED (ENV-2016-CHC-119)
HENLEY DOWNS LAND HOLDINGS LIMITED (ENV-2016-CHC-111)	ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NEW ZEALAND INCORPORATED (ENV-2016-CHC-102)
HORTICULTURE NEW ZEALAND (ENV-2016-CHC-114)	TRANSPower NEW ZEALAND LIMITED (ENV-2016-CHC-113)
OCEANA GOLD NEW ZEALAND LIMITED (ENV-2016-CHC-103)	TRUSTPOWER LIMITED (ENV-2016-CHC-82)
OTAGO WATER RESOURCE USERS GROUP (ENV-2016-CHC-124)	WISE RESPONSE INCORPORATED (ENV-2016-CHC-106)



SCHEDULE A

PART B Chapter 3 Otago has high quality natural resources and ecosystems

People and communities need to sustainably manage the environment, including safeguarding the life-supporting capacity of natural resources and recognising the intrinsic values of ecosystems, is are essential to provide for the current and future wellbeing of people and communities.

The economy, particularly primary production, tourism, and mineral and petroleum exploration and extraction, strongly relies on the quantity and quality of natural resources and the ecosystem services they provide.

This chapter begins with the recognition and maintenance of all natural resources. The second part focuses on the identification, protection, and enhancement of natural resources that are nationally or regionally important. This chapter is not concerned with sustaining mineral resources for future generations.

Objective 3.1 The values (including intrinsic values) of ecosystems and natural resources are recognised, and maintained, and/or enhanced where degraded

Policy 3.1.1 Fresh water

Safeguard the life-supporting capacity of fresh water and manage fresh water to:

- a) Maintain good quality water and enhance water quality where it is degraded, including for:
 - i. Important recreation values, including contact recreation; and
 - ii. Existing drinking and stock water supplies;
- b) Maintain or enhance aquatic:
 - i. Ecosystem health;
 - ii. Indigenous habitats; and
 - iii. Indigenous species and their migratory patterns.
- c) Avoid aquifer compaction and seawater intrusion;
- d) Maintain or enhance, as far as practicable:
 - i. Natural functioning of rivers, lakes, and wetlands, their riparian margins, and aquifers;
 - ii. Coastal values supported by fresh water;
 - iii. The habitat of trout and salmon unless detrimental to indigenous biological diversity; and
 - iv. Amenity and landscape values of rivers, lakes, and wetlands;
- e) Control the adverse effects of pest species, prevent their introduction and reduce their spread;
- f) Avoid, remedy or mitigate the adverse effects of natural hazards, including flooding and erosion; and
- g) Avoid, remedy or mitigate adverse effects on existing infrastructure that is reliant on fresh water.



Manage fresh water to achieve all of the following:

- a) — Maintain or enhance ecosystem health in all Otago aquifers, and rivers, lakes, wetlands, and their margins;*
- b) — Maintain or enhance the range and extent of habitats provided by fresh water, including the habitat of trout and salmon;*
- c) — Recognise and provide for the migratory patterns of freshwater species, unless detrimental to indigenous biological diversity;*
- d) — Avoid aquifer compaction and seawater intrusion in aquifers;*
- e) — Maintain good water quality, including in the coastal marine area, or enhance it where it has been degraded;*
- f) — Maintain or enhance coastal values;*
- g) — Maintain or enhance the natural functioning of rivers, lakes, and wetlands, their riparian margins, and aquifers;*
- h) — Maintain or enhance the quality and reliability of existing drinking and stock water supplies;*
- i) — Recognise and provide for important recreation values;*
- j) — Maintain or enhance the amenity and landscape values of rivers, lakes, and wetlands;*
- k) — Control the adverse effects of pest species, prevent their introduction and reduce their spread;*
- l) — Avoid, remedy or mitigate the adverse effects of natural hazards, including flooding and erosion;*
- m) — Avoid, remedy, or mitigate adverse effects on existing infrastructure that is reliant on fresh water.*

Policy 3.1.2 Beds of rivers, lakes, wetlands, and their margins

Manage the beds of rivers, lakes, wetlands, their margins, and riparian vegetation to:

- a) Safeguard the life supporting capacity of fresh water;
- b) Maintain good quality water, or enhance it where it has been degraded;
- c) Maintain or enhance bank stability;
- d) Maintain or enhance ecosystem health and indigenous biological diversity
- e) Maintain or enhance, as far as practicable:
 - i. Their natural functioning and character; and
 - ii. Amenity values;
- f) Control the adverse effects of pest species, prevent their introduction and reduce their spread; and,
- g) Avoid, remedy or mitigate the adverse effects of natural hazards, including flooding and erosion.

Manage the beds of rivers, lakes, wetlands, their margins, and riparian vegetation to achieve all of the following:

- a) Maintain or enhance their natural functioning;*
- b) — Maintain good water quality, or enhance it where it has been degraded;*
- c) — Maintain or enhance ecosystem health and indigenous biological diversity;*
- d) — Maintain or enhance natural character;*
- e) — Maintain or enhance amenity values;*



- f) ~~Control the adverse effects of pest species, prevent their introduction and reduce their spread;~~
- g) ~~Avoid, remedy or mitigate the adverse effects of natural hazards, including flooding and erosion;~~
- h) ~~Maintain or enhance bank stability.~~

Method 3: Regional Plans

Method 3.1.3, Method 3.1.13

Method 4: City and District Plans

Method 4.1.3, Method 4.1.15

Method 6 : Non RMA Strategies and Plans

Method 6.7

Policy 3.1.3 Water allocation and use

Manage the allocation and use of fresh water by undertaking all of the following:

- a) Recognising and providing for the social and economic benefits of sustainable water use;
- b) Avoiding over-allocation, and phasing out existing over-allocation, resulting from takes and discharges;
- c) Ensure ~~Ensuring~~ the efficient allocation and use of water by undertaking all of the following:
 - ai) ~~Requiring that the volume of water allocated does not exceed what is necessary for its efficient use;~~
 - bii) Encouraging the development or upgrade of infrastructure that increases use efficiency; -
 - iii. Providing for temporary dewatering activities necessary for construction or maintenance.

Policy 3.1.4 Water shortage

Manage for water shortage by undertaking all of the following:

- a) Encouraging land management that improves moisture capture, infiltration, and soil moisture holding capacity.
- ~~ba)~~ Encouraging collective coordination and rationing of the take and use of water when river flows or aquifer levels are lowering, to avoid breaching any minimum flow or aquifer level restriction to optimise use of water available for taking;
- ~~cb)~~ Providing for ~~Encouraging~~ water harvesting and storage, subject to allocation limits and flow management, to reduce demand on water bodies during periods of low flows.

Policy 3.1.5 Coastal water

Manage coastal water to:

- a) Maintain coastal water quality or enhance it where it has been degraded;
- b) Maintain healthy coastal ecosystems, the range of indigenous habitats provided by the coastal marine area, and the migratory patterns of indigenous coastal water species or enhance these values where they have been degraded;
- c) Maintain or enhance important recreation values;



d) Maintain or enhance, as far as practicable:

i. Coastal values; and

ii. The habitats provided by the coastal marine area for trout and salmon unless detrimental to indigenous biological diversity.

e) Control the adverse effects of pest species, prevent their introduction and reduce their spread.

~~Manage coastal water to achieve all of the following:~~

~~a) Maintain or enhance healthy coastal ecosystems;~~

~~b) Maintain or enhance the range of habitats provided by the coastal marine area, including the habitat of trout and salmon;~~

~~c) Recognise and provide for the migratory patterns of coastal water species unless detrimental to indigenous biological diversity;~~

~~d) Maintain coastal water quality or enhance it where it has been degraded;~~

~~e) Maintain or enhance coastal values;~~

~~f) Recognise and provide for important recreation values;~~

~~g) Control the adverse effects of pest species, prevent their introduction and reduce their spread.~~

Policy 3.1.7 Soil values

Safeguard the life-supporting capacity of soil and manage soil to:

a) Maintain or enhance as far as practicable

i. Soil biological diversity;

ii. Biological activity in soils;

iii. Soil function in the storage and cycling of water, nutrients, and other elements through the biosphere;

iv. Soil function as a buffer or filter for contaminants resulting from human activities, including aquifers at risk of leachate contamination;

v. Soil fertility where soil is used for primary production;

b) Where a) is not practicable, minimise adverse effects;

c) Recognise that urban and infrastructure development may result in loss of soil values.

d) Control the adverse effects of pest species, prevent their introduction and reduce their spread;

e) Retain the soil mantle where it acts as a repository of historic heritage objects unless an archaeological authority has been obtained.

~~Manage soils to achieve all of the following:~~

~~Maintain or enhance their life-supporting capacity;~~

~~a) Maintain or enhance soil biological diversity;~~

~~b) Maintain or enhance biological activity in soils;~~

~~c) Maintain or enhance soil function in the storage and cycling of water, nutrients, and other elements through the biosphere;~~

~~d) Maintain or enhance soil function as a buffer or filter for contaminants resulting from human activities, including aquifers at risk of leachate contamination;~~

~~e) Maintain or enhance soil resources for primary production;~~



- ~~g) — Maintain the soil mantle where it acts as a repository of historic heritage objects unless an archaeological authority has been obtained;~~
- ~~h) — Avoid the creation of contaminated land;~~
- ~~i) — Control the adverse effects of pest species, prevent their introduction and reduce their spread.~~

Policy 3.1.8 Soil erosion

Minimise soil erosion resulting from activities, by undertaking all of the following:

- a) *Using appropriate erosion controls and soil conservation methods;*
- b) *Maintaining vegetative cover on erosion prone land;*
- c) *Remediating land where significant soil erosion has occurred;*
- d) *Encouraging activities that enhance soil retention.*

Policy 3.1.9 Ecosystems and indigenous biological diversity

Manage ecosystems and indigenous biological diversity in terrestrial, freshwater and marine environments to:

- a) Maintain or enhance:
 - i. Ecosystem health and indigenous biological diversity including habitats of indigenous fauna;
 - ii. Biological diversity where the presence of exotic flora and fauna supports indigenous biological diversity;
- b) Maintain or enhance as far as practicable:
 - i. Areas of predominantly indigenous vegetation;
 - ii. Habitats of trout and salmon unless detrimental to indigenous biological diversity;
 - iii. Areas buffering or linking ecosystems;
- c) Recognise and provide for:
 - i. Hydrological services, including the services provided by tall tussock grassland;
 - ii. Natural resources and processes that support indigenous biological diversity;
- d) Control the adverse effects of pest species, prevent their introduction and reduce their spread.

~~Manage ecosystems and indigenous biological diversity in terrestrial, freshwater and marine environments to achieve all of the following:~~

- ~~a) — Maintain or enhance ecosystem health and indigenous biological diversity;~~
- ~~b) — Maintain or enhance biological diversity where the presence of exotic flora and fauna supports indigenous biological diversity;~~
- ~~c) — Maintain or enhance areas of predominantly indigenous vegetation;~~
- ~~d) — Recognise and provide for important hydrological services, including the services provided by tussock grassland;~~
- ~~e) — Recognise and provide for natural resources and processes that support indigenous biological diversity;~~



- f) ~~Maintain or enhance habitats of indigenous species and the habitat of trout and salmon that are important for recreational, commercial, cultural or customary purposes;~~
- g) ~~Control the adverse effects of pest species, prevent their introduction and reduce their spread.~~

Policy 3.1.10 Biodiversity in the coastal environment

Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:

- a) Areas of predominantly indigenous vegetation in the coastal environment;
- b) Habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;
- c) Indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;
- d) Habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;
- e) Habitats, including areas and routes, important to migratory species; and
- f) Ecological corridors, and areas important for linking or maintaining biological values identified under this policy.

Policy 3.1.1312 Environmental enhancement

Encourage, facilitate and support activities which that contribute to enhancing the resilience and enhancement of the natural environment, by one or more of the following where applicable:

- a) Improving water quality and quantity;
- b) Protecting or restoring habitat for indigenous species;
- c) Regenerating indigenous species;
- d) Mitigating natural hazards;
- e) Protecting or restoring wetlands;
- f) Improving the health and resilience of:
 - i. Ecosystems supporting indigenous biological diversity ;
 - ii. Important ecosystem services, including pollination;
- g) Improving access to rivers, lakes, wetlands and their margins, and the coast;
- h) Buffering or linking ecosystems, habitats and areas of significance that contribute to ecological corridors;
- i) Controlling pest species.

Objective 3.2 Otago's significant and highly-valued natural resources are identified, and protected, or enhanced where degraded

Issue:

Otago has significant and highly-valued natural resources. These include outstanding natural features, landscapes, seascapes, indigenous biological diversity, water bodies and soil, which all have intrinsic value and help to create the region's identity and support the region's wellbeing.



These highly valued resources can become degraded if they are not adequately protected from inappropriate subdivision, use and development, and so deserve a greater degree of recognition.

Resource degradation can adversely affect the social, cultural and economic wellbeing of people and communities.

Policy 3.2.1 Identifying significant indigenous vegetation and habitats

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 habitats

Protect and enhance areas of significant indigenous vegetation and significant habitats of indigenous fauna, by all of the following:

- a) In the coastal environment, avoiding adverse effects on:
- i. The values that contribute to the area or habitat being significant;
 - ii. Indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;
 - iii. Taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;
 - iv. Indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;
 - v. Habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;
 - vi. Areas containing nationally significant examples of indigenous community types; and
 - vii. Areas set aside for full or partial protection of indigenous biological diversity under other legislation;
- ~~ab) Avoiding adverse effects on Beyond the coastal environment, and in the coastal environment in significant areas not captured by a) above, maintaining those values that contribute to the area or habitat being significant;~~
- ~~bc) Avoiding significant adverse effects on other values of the area or habitat;~~
- ~~de) Remedying when other adverse effects cannot be avoided;~~
- ~~ed) Mitigating when other adverse effects cannot be avoided or remedied ;~~
- ~~fe) Encouraging enhancement of those areas and values ~~which~~ that contribute to the area or habitat being significant;~~
- ~~gf) Controlling the adverse effects of pest species, preventing their introduction and reducing their spread.~~

Policy 3.2.4 Managing outstanding natural features, landscapes and seascapes

Protect, enhance ~~and~~ or restore outstanding natural features, landscapes and seascapes, by all of the following:

- a) In the coastal environment, avoiding adverse effects on the outstanding values of the natural feature, landscape or seascape;
- ~~ba) Avoiding adverse effects on Beyond the coastal environment, maintaining these the outstanding values which contribute to the significance of the natural feature, landscape or seascape;~~



- ~~c~~b) Avoiding, remedying or mitigating other adverse effects ;
- ~~c~~) ~~Recognising and providing for the positive contributions of existing introduced species to those values;~~
- ~~d~~) ~~Controlling the adverse effects of pest species, preventing their introduction and reducing their spread;~~
- ~~d~~e) Encouraging enhancement of those areas and values *which that contribute to the significance of the natural feature, landscape or seascape.*

Policy 3.2.6 Managing highly valued natural features, landscapes and seascapes

~~Protect~~ Maintain or enhance highly valued natural features, landscapes and seascapes by all of the following:

- a) Avoiding significant adverse effects on those values *which that contribute to the high value of the natural feature, landscape or seascape ;*
- b) Avoiding, remedying or mitigating other adverse effects ;
- ~~c~~) ~~Recognising and providing for positive contributions of existing introduced species to those values;~~
- ~~d~~) ~~Controlling the adverse effects of pest species, preventing their introduction and reducing their spread;~~
- ~~c~~e) Encouraging enhancement of those values *which that contribute to the high value of the natural feature, landscape or seascape.*

Policy 3.2.7 Landward extent of the coastal environment

Identify the landward extent of the coastal environment, recognising that the coastal environment ~~consists of one or more of the following~~ includes:

- a) The coastal marine area;
- b) Islands within the coastal marine area;
- c) Areas where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these;
- d) Areas at risk from coastal hazards;
- e) Coastal vegetation and the habitat of indigenous coastal species including migratory birds;
- f) Elements and features that contribute to the natural character, landscape, visual qualities or amenity values;
- g) Items of cultural and historic heritage in the coastal marine area or on the coast;
- h) Inter-related coastal marine and terrestrial systems, including the intertidal zone; and
- i) Physical resources and built facilities, including infrastructure, that have modified the coastal environment.

Policy 3.2.8 Identifying high and outstanding natural character in the coastal environment

Identify areas and values of high and outstanding natural character in the coastal environment, ~~where one or more of the following attributes are met~~ which may include matters such as:

- a) Natural elements, processes and patterns;



- b) *Biophysical, ecological, geological and geomorphological aspects;*
- c) *Natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, estuaries, reefs, freshwater springs and surf breaks;*
- d) *The natural movement of water and sediment;*
- e) *The natural darkness of the night sky;*
- f) *Places or areas that are wild or scenic;*
- g) *A range of natural character from pristine to modified;*
- h) *Experiential attributes, including the sounds and smell of the sea; and their context or setting.*

Method 2: Regional, City and District Council Relationships

Method 2.1, Method 2.2

Method 3: Regional Plans

Method 3.1.5

Method 4: City and District Plans

Method 4.1.23, Method 4.2.2

Method 5: Research, Monitoring and Reporting

Method 5.1.2 b.

Policy 3.2.9 Managing the outstanding natural character of the coastal environment

Preserve or enhance the outstanding natural character of the coastal environment, by all of the following:

- a) *Avoiding adverse effects on those values ~~which~~ that contribute to the outstanding natural character of an area;*
- b) *Avoiding, remedying or mitigating other adverse effects;*
- c) *Recognising and providing for the contribution of existing introduced species to the natural character of the coastal environment;*
- d) *Encouraging enhancement of those values ~~which~~ that contribute to the outstanding natural character of an area;*
- e) *Controlling the adverse effects of pest species, prevent their introduction and reduce their spread.*

Policy 3.2.10 Managing the high natural character of the coastal environment

Preserve or enhance the high natural character of the coastal environment, by all of the following:

- a) *Avoiding significant adverse effects on those values ~~which~~ that contribute to the high natural character of an area;*
- b) *Avoiding, remedying or mitigating other adverse effects;*
- c) *Recognising and providing for the contribution of existing introduced species to the natural character of the coastal environment;*
- d) *Encouraging enhancement of those values ~~which~~ that contribute to the high natural character of an area;*
- e) *Controlling the adverse effects of pest species, prevent their introduction and reduce their spread.*



Policy 3.2.13 Identifying outstanding freshwater bodies

Identify freshwater bodies where any one or more of the following significant values are outstanding:

- a) Naturalness ;
- b) Amenity or landscape values;
- c) Kāi Tahu cultural values;
- d) Recreational values;
- e) Ecological values;
- f) Hydrological values.

Policy 3.2.14 Managing outstanding freshwater bodies

Protect outstanding freshwater bodies by all of the following:

- a) ~~Avoiding~~ Maintaining the values that ~~significant adverse effects on those values which contribute to the water body being outstanding;~~
- b) Avoiding, remedying or mitigating other adverse effects on the water body ;
- c) Controlling the adverse effects of pest species, preventing their introduction and reducing their spread;
- d) Encouraging enhancement of those values ~~which~~ that contribute to the water body being outstanding.

Policy 3.2.15 Identifying the significant values of wetlands

Identify the significant values of wetlands, having regard to all of the following:

- a) Degree of naturalness;
- b) Amenity or landscape values;
- c) Kāi Tahu cultural values;
- d) Recreational values;
- e) Ecological function and values;
- f) Hydrological function and values;
- g) Geomorphological features and values.

Policy 3.2.16 Managing the values of wetlands

Protect the function and values of wetlands by all of the following:

- a) ~~Avoiding significant adverse effects on~~ Maintaining the significant values of the wetlands;
- b) Avoiding, remedying or mitigating other adverse effects;
- c) Controlling the adverse effects of pest species, preventing their introduction and reducing their spread;
- d) Encouraging enhancement ~~which~~ that contributes to the values of the wetland.
- e) Encouraging the rehabilitation of degraded wetlands.

Policy 3.2.17 Identifying significant soil

Identify areas of soil that are significant ~~according to one or more of,~~ using the following criteria:



- a) Land classified as land use capability I, II and IIIe in accordance with the New Zealand Land Resource Inventory;
- b) Degree of significance for primary production;
- c) Significance for providing contaminant buffering or filtering services;
- d) Significance for providing water storage or flow retention services;
- e) Degree of rarity.

Policy 3.2.18 Managing significant soil

Protect Manage areas of significant soil , by all of the following:

- a) Maintaining those values which make the soil significant;
- ~~a) Avoiding significant adverse effects on those values which make the soil significant;~~
- ~~b) Avoiding, remedying or mitigating other adverse effects;~~
- ~~b)e) Recognising that loss of significant soil to urban development urban expansion on significant soils may occur in accordance with any future development strategy be appropriate due to location and proximity to existing urban development and infrastructure;~~
- ~~c)d) Controlling the adverse effects of pest species, preventing their introduction and reducing their spread.~~

Method 3: Regional Plans

3.1.3 *Policies 3.1.1, ~~3.1.2,~~ and to 3.1.5, and Policies 4.3.3, 4.4.1 and 4.4.3:*

- a. *Manage land use and vegetation removal within the beds of lakes and rivers, wetlands, riparian areas, and in the coastal environment;*
- ~~b. In appropriate circumstances, provide for activities that have a functional need to be located in the beds of rivers, lakes, wetlands, and their margins.~~
- ~~c.b. Manage change in river morphology;~~
- ~~d.e. Encourage restoration of water margins;~~
- ~~e.d. Managing noise in the coastal marine area;~~
- ~~f.e. Identify freshwater management units that include all freshwater bodies in Otago in accordance with the National Policy Statement for Freshwater Management 2014;~~
- ~~g.f. Maintain good water quality and improve it where it is degraded.~~
- ~~h. Provide for resource users, people and communities that rely on fresh water within environmental limits;~~
- ~~i. Set limits and targets to give effect to the National Policy Statement for Freshwater Management 2014;~~

Method 4: City and District Plans

4.1.43 *Policies 3.1.2, 3.1.9 and 3.2.2: by including provisions to:*

- ~~a. Maintain or enhance ecosystems and biological diversity; and to~~
- ~~b. Protect significant indigenous vegetation and significant habitats of indigenous fauna;~~
- ~~c. Control the clearance or modification of indigenous vegetation and habitats of indigenous fauna;~~



4.1.15 Policy 3.1.2, 4.3.3, 4.4.1 and 4.4.3: by providing, in appropriate circumstances, for activities that have a functional need to be located in the beds of rivers, lakes, wetlands, and their margins.

Schedule 3 Criteria for the identification of outstanding natural features, landscapes and seascapes, and highly valued natural features, landscapes and seascapes

~~The identification of natural features, landscapes and seascapes will be based on, but not limited to, have regard to the following criteria:~~

-
- | | |
|---------------------------|--|
| 1. Biophysical attributes | a. Natural science factors, including geological, topographical, ecological and dynamic components |
| | b. The presence of water including in seas, lakes, rivers and streams |
| | c. Vegetation (native and exotic) |
-
- | | |
|-----------------------|---|
| 2. Sensory attributes | a. Legibility or expressiveness—how obviously the feature or landscape demonstrates its formative processes |
| | b. <u>Amenity Aesthetic</u> values including memorability and naturalness |
| | c. Transient values including presence of wildlife or other values at certain times of the day or year |
| | d. Wild or scenic values |
-
- | | |
|---------------------------|---|
| 3. Associative attributes | a. Whether the values are shared and recognised |
| | b. Cultural and spiritual values for Kāi Tahu, identified by working, as far as practicable, in accordance with tikanga Māori; including their expression as cultural landscapes and features |
| | c. Historical and heritage associations |
-

Schedule 4 Criteria for the identification of areas of significant indigenous vegetation and habitat of indigenous fauna

~~The identification of areas of significant indigenous vegetation and habitat of indigenous fauna are assessed against all of the following criteria. Areas will be considered significant where they meet one or more of the following criteria.~~

-
- | | |
|-----------------------|---|
| 1. Representativeness | An area that is an example of an indigenous vegetation type or habitat that is typical or characteristic of the natural diversity of the relevant ecological district <u>or coastal marine biogeographic region</u> . This may include degraded examples of their type or represent all that remains of indigenous vegetation and habitats of indigenous fauna in some areas. |
|-----------------------|---|
-



2. <i>Rarity</i>	<p>An area that supports:</p> <ol style="list-style-type: none"> An indigenous species that is threatened, at risk, or uncommon, nationally or within an ecological district or coastal marine biogeographic region; Indigenous vegetation or habitat of indigenous fauna that has been reduced to less than 20% of its former extent nationally, regionally or within a relevant land environment, ecological district, coastal marine biogeographic region or freshwater environment including wetlands; Indigenous vegetation and habitats within originally rare ecosystems.
3. <i>Diversity</i>	<p>An area that supports a high diversity of indigenous ecosystem types, indigenous taxa or has changes in species composition reflecting the existence of diverse natural features or gradients. vegetation and habitats of indigenous fauna or consists of a diverse range or sequence of interrelated vegetation and habitat types. The degree of diversity should be referenced to specific communities i.e. levels of diversity varying significantly between communities and habitat types.</p>
4. <i>Distinctiveness</i>	<p>An area that supports or provides habitat for:</p> <ol style="list-style-type: none"> Indigenous species at their distributional limit within Otago or nationally; Indigenous species that are endemic to the Otago region; Indigenous vegetation or an association of indigenous species that is distinctive, of restricted occurrence, or has developed as a result of an unusual environmental factor or combinations of factors.
5. <i>Ecological Context</i>	<p>The relationship of the area with its surroundings, including:</p> <ol style="list-style-type: none"> An area that has important connectivity value allowing dispersal of indigenous vegetation and fauna between different areas; An important buffering function that helps to protect the values of an adjacent area or feature; An area that is important for indigenous fauna during some part of their life cycle, either regularly or on an irregular basis, e.g. for feeding, nesting, breeding, or refuges from predation.
6. <i>Coastal Environment</i>	<p>An area identified in accordance with Policy 11 of the NZCPS.</p>

This schedule applies to indigenous vegetation and habitat of indigenous fauna in the terrestrial, coastal and marine environments.

The Regional Council holds additional information to inform decision making on these criteria including the rationale for criteria and examples of areas representing these criteria.



SCHEDULE B

Method 2.1.3

2.1 Regional, city and district councils together will:

- 2.1.3 Apply an integrated management approach to address the relationship between land use and both fresh and coastal water.

Method 2.2.3

2.2 Regional, city and district councils may:

- 2.2.3 Delegate or transfer any one or more of their functions, powers or duties from one local authority to another in accordance with section 33 of the RMA; and where this provides an efficient and effective service.

Method 3.1.3

Objectives, policies and methods to implement the following policies:

- 3.1.3 Policies 3.1.1, ~~3.1.2~~, and to 3.1.5, and Policies 4.3.3, 4.4.1 and 4.4.3:

- a. Manage land use and vegetation removal within the beds of lakes and rivers, wetlands, riparian areas, and in the coastal environment;
- b. In appropriate circumstances, provide for activities that have a functional need to be located in the beds of rivers, lakes, wetlands, and their margins.
- ~~c.~~ Manage change in river morphology;
- ~~d.~~ Encourage restoration of water margins;
- ~~e.~~ Managing noise in the coastal marine area;
- ~~f.~~ Identify freshwater management units that include all freshwater bodies in Otago in accordance with the National Policy Statement for Freshwater Management 2014;
- ~~g.~~ Maintain good water quality and improve it where it is degraded.
- ~~h.~~ Provide for resource users, people and communities that rely on fresh water within environmental limits;
- ~~i.~~ Set limits and targets to give effect to the National Policy Statement for Freshwater Management 2014;

Method 4.1.4

Objectives, policies and methods to implement the following policies:

- 4.1.4~~3~~ Policies 3.1.2, 3.1.9 and 3.2.2: by including provisions to:

- a. ~~m~~ Maintain or enhance ecosystems and biological diversity; and
~~to~~
- b. ~~p~~ Protect significant indigenous vegetation and significant habitats of indigenous fauna;
- c. Control the clearance or modification of indigenous vegetation and habitats of indigenous fauna;

Method 4.2.4

4.1 Implementing district plans.



- 4.2.4 Policies 4.5.1, 4.5.2, and 5.3.1 : by preparing or requiring structure plans for large scale land use changes, including subdivision;

Method 5.2.2

5.2 Research

5.2.2 Regional, city and district councils together will:

- a. Research and share information relevant to the effects of land use on water, including:
 - i. The values supported by the catchment;
 - ii. Riparian vegetation cover or any land cover ~~which~~ that contributes to supporting freshwater values, such as tussock grasslands;
 - iii. Land use changes which might have significant effects on freshwater values;
 - iv. Areas particularly sensitive to land use changes, such as sensitive aquifers and water-short catchments;
 - v. The effects of land use on erosion;
- b. Research and share information relevant to the effects of land use on:
 - i. Coastal network infrastructure;
 - ii. Coastal values;
 - iii. Coastal hazards;
 - iv. Riparian vegetation cover or any land cover ~~which~~ that contributes to supporting coastal values, or mitigating coastal hazards;
 - v. Areas particularly sensitive to land use changes.

Method 6.5.1

6.5 Pest management strategy

6.5.1 The regional council will:

- a. Develop and implement a Pest Management Strategy for the control of pest species including those which:
 - i. Have adverse effects on the natural character of the coastal environment;
 - ii. Have adverse effects on significant indigenous biological diversity;
 - iii. Have significant adverse effects on indigenous biological diversity;
 - iv. Have adverse effects on outstanding natural features, landscapes, seascapes and highly valued natural features, landscapes and seascapes.
 - v. Have propensity for spread, including wilding trees.
- b. Have regard to indigenous biological diversity when preparing any Regional Pest Management Strategy and prioritising pest management activities, including:
 - i. Any areas of significant indigenous vegetation and significant habitats of indigenous fauna;
 - ii. Any local indigenous biological diversity strategies.

Method 9.2.1

9.2 Facilitation

- 9.2.1 Regional, city and district councils ~~will~~ may facilitate the restoration of natural wetlands or construction of artificial wetlands, particularly when it contributes to the:



- a. Management of diffuse discharges to water;
- b. Protection or restoration of indigenous species;
- c. Mitigation of natural hazards;
- d. Restoration of the natural character of wetlands.

Method 9.2.2

9.2.2 Regional, city and district councils ~~will~~ may facilitate the restoration or enhancement of riparian margins, particularly when they:

- a. Improve the health and resilience of ecosystems supporting indigenous biological diversity;
- b. Restore or rehabilitate indigenous biological diversity and natural character;
- c. Encourage the natural regeneration of habitats, including habitats for indigenous species.
- d. Contribute to a safe network of active transport infrastructure;
- e. Improve access to rivers, lakes, wetlands and their margins;
- f. Mitigate risks of erosion.

Method 9.2.3

9.2.3 Regional, city and district councils ~~will~~ may facilitate initiatives that support:

- a. Community-based development of strategies and plans to maximise community, ecosystem and natural resource resilience at a scale sufficient for those natural and physical resources;
- ba. The conservation of indigenous vegetation;
- cb. Conservation of biological diversity;
- de. Maintenance or enhancement of coastal values, including restoration or rehabilitation of the natural character;
- ed. The protection or restoration of the significant values of wetlands;
- fe. Co-ordination of the services provided by operators of lifeline utilities, essential and emergency services across and beyond Otago;
- gf. Energy conservation and efficiency, at a community or individual scale;
- hg. Small scale renewable electricity generation;

Method 9.2.4

9.2.4 Regional, city and district councils ~~will~~ may facilitate coordination between lifeline utilities for emergency management, including by:

- a. Recognising the interconnections between lifeline utilities;
- b. Encouraging any development or upgrade of infrastructure which would resolve potential weaknesses in emergency management.



Biodiversity Offsets *Measurable conservation outcomes resulting from actions designed to compensate for residual adverse biodiversity impacts arising from project development after appropriate avoidance, minimisation, remediation and mitigation measures have been taken. The goal of biodiversity offsets is to achieve no net loss and preferably a net gain of biodiversity on the ground.*

No net loss *In the context of biodiversity offsets, means no net loss with respect to:*

- a) Species abundance, population structure, and composition (e.g. individual species or species groups)*
- b) Habitat structure (e.g. vegetation tiers, vegetation pattern)*
- c) Ecosystem function (e.g. nutrient cycling rates)*
- d) People's use of and cultural values associated with biodiversity (e.g. particularly valued habitats or species).*

Wetland *Wetland includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.*

In this Regional Policy Statement, 'wetland' excludes any wetland constructed for the purpose of water quality management

