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 Hearing Stream 2 – Rural, Rural Residential and Rural Lifestyle, Gibbston Character Zone, Indigenous Vegetation and Biodiversity, and Wilding Exotic Trees

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REPLY OF CRAIG ALAN BARR
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL

CHAPTER 33 - INDIGENOUS VEGETATION AND BIODIVERSITY

3 June 2016

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1. INTRODUCTION

1.1 My name is Craig Barr. I prepared the section 42A report for the Indigenous Vegetation and Biodiversity Chapter of the Proposed District Plan (**PDP**). My qualifications and experience are listed in that s42A report dated 7 April 2016.

1.2 I have reviewed the evidence and submissions filed by other expert witnesses and submitters both in advance of and during the Rural hearing, and attended the hearing except on 25 May 2016 where I was provided with a report of the information from submitters and counsel presented on that day.

1.3 This reply evidence covers the following issues:

(a) Clarity and certainty with the provisions;
(b) Exemption of clearance within the Ski Area Sub Zones;
(c) Ecological management plans and farm management plans;
(d) Maintenance of Indigenous Biodiversity;
(e) The efficiency and effectiveness of the application of the Indigenous Vegetation Rules;
(f) Biodiversity offsetting;
(g) Ecosystem services;
(h) The 'application of water' as part of the definition of 'clearance of indigenous vegetation';
(i) Objectives and Policies;
(j) Exemptions for Utilities and The National Grid;
(k) Non-Complying Activity Status for Significant Indigenous Vegetation Clearance; and
(l) Scheduled Significant Natural Areas (**SNA**).

1.4 Where I am recommending changes to the provisions through considering submitter evidence and the hearing of evidence and submissions before the Panel, I have included those changes in **Appendix 1** (**Revised Chapter**). I have also attached a section 32AA evaluation in **Appendix 2**.

1.5 In addition I attach the following to my evidence:

(a) **Appendix 3** – updated flow diagram of the Chapter 33 Rules;

(b) **Appendix 4** – examples of resource consents for 'Whole of Farm Operations'; and

(c) **Appendix 5** – Mr Glenn Davis' responses to questions from the Panel: Re: Additional Information Request from Hearings Panel – Queenstown Lakes District Proposed District Plan (*Hearing Panel questions*).

2. CLARITY AND CERTAINTY WITH THE PROVISIONS

2.1 It appears a number of submitters have misinterpreted Permitted Activity Standard 33.5.3 where it identifies Acutely or Chronically Threatened Land Environments as defined by Land Environments of New Zealand at Level IV. The Panel also raised the matter that the rules in particular could be drafted so they are clearer.

2.2 Rule 33.5.3 states:

> *Within a land environment (defined by the Land Environments of New Zealand at Level IV) that has 20 percent or less remaining in indigenous cover, clearance is less than 500m² in area of any site and, 50m² in area of any site less than 10ha, in any continuous period of 5 years (refer to section 33.9).*

2.3 The drafting of the rule is technically correct in so far that it refers to a land environment that has 20 percent or less remaining in indigenous cover. The reference to 'land environment' is to the Landcare research land environments of New Zealand, and not to an area somewhere that has a coverage of less than 20% of indigenous vegetation. This is clear because the following statement in brackets refers to the Land Environments of New Zealand. However, a simpler drafting solution could be to simply refer to the relevant maps in Schedule 33.9 of the PDP that identify land environments with 20% or less remaining indigenous cover, being either acutely (<10%) or chronically (10%-20%) threatened land environments, then the

standard should identify the permitted clearance within these areas. On sites less than 10ha in area this is 50m² and on sites more than 10ha this is 500m², within any five year period

2.4 The recommended revised chapter in **Appendix 1** contains modifications in response to these concerns. These modifications are to do with clarity and do not make any substantive changes.

2.5 During the hearing I presented to the Panel a flow diagram[1] of the rules and the pathway to permitted activity status associated with vegetation clearance. The Panel also suggested that I include the respective rules to assist understanding. This has been completed and an updated flow diagram is attached at **Appendix 3**.

3. EXEMPTION OF CLEARANCE WITHIN THE SKI AREA SUB ZONES

3.1 The Department of Conservation (**DOC**) confirmed during the course of the hearing that that they have withdrawn their further submission (FS 1080.14) opposing NZ Ski's request that an exemption, to the clearance of indigenous vegetation rules, is provided within the Ski Area Sub Zones where approval has been provided by DOC, and the land is administered under the Conservation Act 1987.

3.2 During the course of the hearing the Panel requested that the Council propose wording for such a rule. The suggested rule was filed on 16 May 2016.[2] I continue to consider that the suggested rule filed on 16 May 2016 is appropriate and if the Panel seek to adopt this rule no additional modifications are proposed.

3.3 Related to this matter was the evidence of Mr Farrell and Ms Fiona Black for Real Journeys Limited (#621) who seek an exemption on 'private land' within the Ski Area Sub Zones that permits clearance of indigenous vegetation clearance. I do not consider this is appropriate. I consider that for the Council to provide for this exemption it would not be fulfilling its function under section 31 of the RMA to maintain indigenous biological diversity. In addition, where

1 Memorandum field on 16 May 2016. http://www.qldc.govt.nz/planning/district-plan/proposed-district-plan/proposed-district-plan-hearings/pre-hearing-documents-issues-by-hearings-commissioners/.
2 Memorandum filed on 16 May 2016. http://www.qldc.govt.nz/planning/district-plan/proposed-district-plan/proposed-district-plan-hearings/pre-hearing-documents-issues-by-hearings-commissioners/.

there are plants or communities that qualify as significant, I consider that the Council would fall short of its obligations under section 6(c) of the RMA to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna.

3.4 I also note that Real Journeys has not provided any evidential basis to prove that providing such exemptions within the Ski Area Sub Zones is appropriate in terms of the values of the indigenous vegetation within these areas. On this basis I recommend their submission be rejected.

4. ECOLOGICAL MANAGEMENT PLANS AND FARM MANAGEMENT PLANS

4.1 Mr Fergusson for submitters Soho Ski (#610) and Treble Cone (#, 613) requests the inclusion of provisions for a controlled activity status for indigenous vegetation clearance within the Ski Area Sub Zones[3] where this is supported by an ecological management plan. While the concept has merit, and would provide a holistic view of the overall management of indigenous biodiversity on land within the Ski Area Sub Zones, I do not support the controlled activity status because irrespective of the quality of the application and the negative or redeeming components, it forces the Council's hand to grant the consent, even if the adverse effects on indigenous biodiversity were significant Fundamentally this would not allow the Council to fulfil its functions in terms of section 31 or section 6(c) of the RMA.

4.2 As set out below, there is an opportunity for a ski field operator to apply for a management type resource consent that covers an expansive area and would have a 20 year duration that could cover future ski field improvements or infrastructure installation. This type of resource consent is not discouraged by the Council but it is up to the proponent to apply for it. If a ski field operator is frustrated by the need for a series of 'one-off' approvals this method is currently available. I therefore do not support the introduction of the provisions set out by Mr Fergusson.

3 I note that I am assuming this is not on DOC land.

4.3 During his appearance at the hearing Mr Espie for JBIL (#784) criticised the regulatory process with respect to the costs and nuisance for landowners to have to apply for multiple resource consents. In addition Mr Sam Kane made the point that the permitted standards proposed would make it difficult to control indigenous vegetation on his farm because clearing 500m² within an area identified as an acutely or chronically threatened land environment is inefficient, and would not allow him to appropriately manage his property.

4.4 Mr Espie promoted the use of farm management plans as better ways to look holistically at farm operations and environmental management over an entire property, instead of a piecemeal approach in addressing the District Plan rules on a case by case basis.

4.5 A review of resource consents granted under the ODP regime, which should not be different under the PDP in terms of the ability to apply for these types of consents provides the opportunity for the entire landholding/farm operation to be considered if the proponent chooses to.

4.6 The majority of resource consents granted for indigenous vegetation clearance in the District have been for large landholdings in the thousands of hectares and the consents have a 20 year duration.

4.7 The resource consents granted for the 'whole of farm' and for a 20 year duration provides the consent holder the ability to clear indigenous vegetation as part of the farming operation and within budget and seasonal constraints. This also addresses the reality that the longer indigenous vegetation is left to regenerate, the more likelihood it has of its values increasing. While I appreciate that this is counter to promoting indigenous biodiversity, the longer a landowner takes to apply for and obtain resource consent to clear indigenous vegetation, the harder it could be to obtain a resource consent if the values increase. Applying for a 20 year resource consent is a snap shot of the values on that land at that point in time.

4.8 The Council's ecologist Mr Davis has been involved with and provided advice on resource consent applications in the District for both the Council and landowners. I have sought advice from Mr Davis on the matter of the current practice of resource consents with regard to 'farm management plans' and recognition of the potential constraints of landowners. Mr Davis has advised as follows:[4]

> *Between 2008 and 2010 many of the high country station vegetation clearance consents expired. During this period, I am aware of at least 20 properties that prepared vegetation clearing applications and most of these applications covered vegetation clearing that was required across the whole property. The council made the decision at this time to provide consents for 20 years so that it would provide a reasonable timeframe for the clearing activities to be undertaken and provide farm managers with more certainty regarding their farm management. Most clearing activities were associated with the clearance of bracken fern dominated vegetation that had developed through pastures and was impacting farm productivity.*
>
> *The council reviewed applications and identified exclusion areas that were included in the applications. Key areas that were identified for exclusion included:*
>
> - *Exclusion of well mature beech forest, dry shrubland and broadleaved indigenous hardwood communities;*
> - *Buffer areas adjacent to waterways identified on the 1:50,000 topographic maps;*
> - *Exclusion of representative indigenous vegetation;*
> - *Exclusion of spraying activities in the vicinity of rocky outcrops and bluff systems; and*
> - *Exclusion of areas where indigenous vegetation had regenerated strongly through bracken fern.*
>
> *The process has essentially provided farm managers with a whole farm management plan of how they can maintain*

4 See **Appendix 5** at section 5.

and develop pastures throughout their farms and given them a reasonable timeframe to work within.

4.9 For the reasons set out above I do not consider the regulatory framework to be a hindrance to farming operations. The ability to apply for a resource consent for a 'whole of farm' resource consent with a 20 year duration is well established. I see no reason why this would change under the PDP.

4.10 I have provided examples of resource consents granted under the ODP regime in **Appendix 4**. Two examples are also addressed in Mr Davis' memoranda to the Council. There are other examples available for the Panel should they wish to see more.

5. MAINTENANCE OF INDIGENOUS BIODIVERSITY

5.1 Legal submissions filed by JBIL (#784) contended that there is no need to provide rules for indigenous vegetation that are not identified as an SNA or located within the alpine environment. This is because the SNA is where the significant indigenous vegetation is located and by protecting the indigenous vegetation within the SNAs, the Council has fulfilled its obligations.

5.2 This contention is not supported by any expert ecological evidence. I consider that it is flawed reasoning and many other stakeholders including the Council, DOC (#373) and Forest and Bird (#706) acknowledge that while the schedule of SNAs identified has significantly improved the areas within the District scheduled as SNAs, there will be areas that qualify as significant that have not yet been identified and scheduled. The three parties identified above are in agreement that the resource consent process and application of the 'significance criteria' in Policy 33.2.10 (in the recommended revised chapter) when assessing resource consents but also plan changes or other proposals, such as notices of requirements, is the most appropriate method for the Council to identify and protect significant areas that have not yet been identified.

5.3 Therefore, I consider that to not have any rules other than for scheduled SNAs and the alpine environment would be highly flawed and would not enable the Council to fulfil its function to maintain indigenous biodiversity.

5.4 I consider that the 'lower tier' of rules that control the permitted clearance of indigenous vegetation on land not identified as an SNA or within the alpine environment to be very important. This is also supported by Mr Davis in his evidence and in Issue 2 of the section 32 evaluation.

5.5 Related to this is the Council's use of the Threatened Environment Classification (**TEC**) that identifies 'land environments'. In the case of the PDP rules the Council has used those areas defined as 'chronically threatened' and 'acutely threatened' land environments as areas where it is not appropriate to have a relatively high area of permitted clearance (5000m²), and this has been reduced to 500m² on sites larger than 10ha, and to 50m² on sites smaller than 10ha.

5.6 Ms Maturin for Forest and Bird (#706) noted at the hearing that Forest and Bird are uncomfortable with the 5000m² permitted clearance and that the reduced area using the TEC and lower thresholds goes someway to alleviate this. Ms Maturin made the case that there is very little indigenous vegetation remaining within these land environments and their protection is important.

5.7 Mr Rance, a terrestrial ecologist speaking for DOC (#373) at the hearing, was clear in his view that the use of the TEC as a rule and as a 'surrogate' or indicator for areas where indigenous vegetation is likely to be significant is appropriate. Mr Rance also backed the use of TEC in terms of robustness of the data that feeds into the model.

5.8 I consider that the appropriateness of the use of the TEC is sufficiently covered in the section 32 evaluation report and in Mr Davis' evidence attached to the s42a report. In particular where the TEC is used as indicator for areas of potential significance.

5.9 Despite this evidence, in light of the doubts cast by at least 3 submitters[5] as to the efficacy of using the TEC, I have requested advice from Mr Davis as to the appropriateness of using the TEC, with particular respect to the only other opposing view from an ecologist, being Mr Espie for JBIL (#784):[6]

> *LENZ and the threatened environment classification (TEC) have not been used and are not proposed to be used in isolation as suggested by Dr Espie's evidence. However, when used alongside research into the pre-settlement distribution of indigenous vegetation and local ecological knowledge, the TEC is a useful district wide tool to provide context for the assessment of rarity of indigenous vegetation that remains in the district. Furthermore, the TEC highlights the areas in the district where vegetation cover is very restricted from its original distribution with these areas likely to support a disproportionately large percentage of New Zealand's most seriously threatened species, habitats and ecosystems (Walker, 2005).*
>
> *The TEC is widely used by district and regional councils, ecological practitioners and the Department of Conservation. The Otago Regional Council adopts the use of LENZ and TEC in Schedule 5 of the Proposed Regional Policy Statement that sets out the criteria for the assessment of significance of indigenous vegetation and habitats. Furthermore, LENZ and TEC are adopted in the Statement of National Priorities (MfE and DOC, 2007) with National Priority 1 promoting the protection of indigenous vegetation associated with land environments (LENZ) that have 20% or less remaining in indigenous cover.*
>
> *The PDP uses the TEC to support a tiered approach to the application of the vegetation clearing rules by reducing the permitted area of clearance in lowland environments where indigenous vegetation cover has been reduced to less than 20% of its original extent. The 20% indigenous vegetation cover remaining level has been adopted as species loss has been shown to accelerate when the area of habitat remaining falls*

5 Lake McKay Station (439), JBIL (784) Same Kane (590).
6 See **Appendix 5** at section 2.

below 20% (Statement of National Priorities, 2007 (see Appendix C); Walker et. al., 2015). This approach is consistent with regional and national policies.

There are limitations with LENZ, as inherent in all scientific models. These limitations have been documented in LENZ supporting documentation. The authors of LENZ promote the use of LENZ down to a scale of 1:50,000 and also note that ground truthing is necessary to support decision making. I agree that LENZ and the TEC should not be used in isolation but it has a useful and important role in providing some context around percentage indigenous cover remaining across the district. This is a context that cannot be provided in a site ecological assessment or an assessment of neighbouring vegetation but remains an important consideration, particularly in lowland environments where the remaining indigenous cover is often highly restricted.

5.10 I refer to and rely on Mr Davis's advice on this matter. Overall, I consider that the methods to maintain indigenous biodiversity using the TEC, including the ongoing identification of potential SNA's through development proposals is appropriate.

5.11 Mr Brown for Queenstown Park Limited (#806) and other submitters[7] seek the introduction of policies that recognise the positive benefits of activities that protect or rehabilitate indigenous vegetation. I accept that the objective and policy framework as notified takes a protective view but this reflects the reality that the majority of development proposals that are required to address Chapter 33 do so because they have applied for resource consent to clear indigenous vegetation, and the obligations set out in the RMA require protection (section 6(c)) and maintenance (section 31).

5.12 I recommend a new policy at 33.2.1.11 that is essentially a hybrid of the policies sought by Mr Brown in part 5 of his evidence. I therefore accept in part Mr Brown's submission because the recognition or

7 Trojan Helmet Limited (Submissions 443, 452, 437), Mount Cardrona Station Limited (407), Hogan Gully Farming Limited (456) Ayrburn Farm Estate Limited (430), Kawarau Jet Services Holdings Ltd (307), ZJV (NZ) Limited (343), Queenstown Wharves Limited (766), Mount Rosa Station Limited (377), Dalefield Trustees Limited (350), Skydive Queenstown Limited (122).

intent of the issue is accepted. However, I prefer the following phrasing because it is more consistent with the phrase used throughout Chapter 33. The recommended policy is:

> *Encourage opportunities through development to protect and enhance high quality indigenous vegetation and the rehabilitation of degraded indigenous vegetation communities.*

5.13 In addition, Mr Brown seeks that other activities than farming are recognised in Policy 33.2.2.3. I consider that the inclusion of 'recreational activities' is applicable and adds value because there are SNAs within existing and potential areas with recreational potential. Mr Brown seeks a policy that 'encourages land use practices that enable rehabilitation and pest control', under Objective 33.2.4 for Alpine Environments. If the Panel were to accept this policy, which I consider to be appropriate, I recommend that it is located in Objective 33.2.1 because pest control and rehabilitation is applicable in many areas and not just the Alpine Environment.

5.14 These changes are included in the recommended revised chapter in **Appendix 1** and a s32AA evaluation of the changes is attached at **Appendix 2**.

6. THE EFFICIENCY AND EFFECTIVENESS OF THE APPLICATION OF THE INDIGENOUS VEGETATION RULES

6.1 Part 33.3 of the Indigenous Vegetation Chapter provides guidance on how to apply the indigenous vegetation rules. Issue 1 of the section 32 evaluation report discusses the issues with the ODP rules and the importance of providing certainty. Forest and Bird (#706) and DOC (#373) both showed support for this method at the hearing, while JBIL (#784) and in particular it's planning witness, Mr Alan Cubitt, submitted that the rules did not advance certainty. Unhelpfully, Mr Cubitt did not provide any alternative methods. I consider that Mr Cubitt's evidence tabled and spoken to at the hearing appeared to be overly focused on the context of the identification of threatened

plants, the need for certainty for landowners and the nuisance of requiring an ecologist/botanist to identify these plants.

6.2 I consider that the method put forward in the PDP to apply the indigenous vegetation rules provides certainty and in many situations will be able to be applied confidently by 'laypeople'. The use of the 20% and 30% coverage thresholds provides a quantitative measure. These implementation methods could be removed, but then a landowner would have to include all and any indigenous vegetation within an area and this is not considered efficient. The 20% and 30% provide the ability for a landowner to exclude outliers. Examples were provided to the Panel, with the information filed on 16 May 2016, of such outliers that would not be included in the PDP rules.

6.3 At the hearing Mr Espie for JBIL considered that the method was flawed and suggested an alternative method to identify vegetation through different types of communities. Mr Espie referred to this as the tripartite or '1/3, 1/3, 1/3' method. In paragraph 3.56 of his evidence Mr Espie also cited an example of the flaws in using coverage by citing a situation where over time, a wilding conifer community became the dominant species. I consider that this is not an accurate critique of the application of the rules because the qualifiers in Rule 33.3 make it clear that the vegetation at issue is indigenous vegetation. Therefore I simply cannot see how citing wilding conifers is an appropriate example. Mr Espie also appeared to hold an incorrect assumption in that the need for a resource consent predetermined the outcome for any development.

6.4 With respect to Mr Espie, the need to obtain a resource consent does not predetermine the outcome and as noted in Issue 1 of the section 32 evaluation report, up until the *Royal Forest and Bird v Innes*[8] enforcement proceedings, it appeared that all resource consent applications had been granted and had been processed on a notified basis. A more recent resource consent for partial retrospective approval of indigenous vegetation with an acutely threatened land environment was also processed on a notified basis.[9]

8 *Royal Forest and Bird Society of New Zealand v Dougal Innes* [2014] NZEnvC 72.
9 Peter Phiskie RM140165.

6.5 I have sought clarification from the Council's ecologist Mr Davis, with respect to the notion suggested by Mr Espie of whether the tripartite, or '1/3, 1/3, 1/3' method he spoke to in the hearing has merit. Mr Davis has advised as follows:[10]

> *The problem with Dr Espie's proposal is that it provides no definition around what 'modified semi natural' vegetation constitutes indigenous vegetation. It also appears to promote a tiered approach to the assessment of ecological values and assumes 'modified semi natural' vegetation is not as valuable as vegetation that has a high degree of naturalness. This is not consistent with our understanding of ecological value, ignores the concept of ecosystem rarity and would not promote maintenance of the districts biodiversity. It is much better to provide a definition of indigenous vegetation (as set out in the PDP) and then undertake an assessment of ecological values on their merits.*

6.6 Overall, I consider that the methods in Part 33.3 that provide direction on whether the indigenous vegetation within an area 'qualifies' to be calculated is the most appropriate and will best serve to meet the purpose of the RMA.

7. BIODIVERSITY OFFSETTING

7.1 DOC (#373) seek that biodiversity offsetting is defined in the PDP, that the policy relevant to biodiversity offsetting under Objective 33.2.1 is modified, and a schedule is added to the PDP that provide guidance on the application of biodiversity offsetting.

7.2 In the s42a report I did not accept DOC's submission on this. Instead I accepted NZTM's (#519) submission that there are likely to be advances in biodiversity offsetting, and defining the term could lead to frustration at some point in the future life of the PDP. An example of this frustration is where a development proposal seeks to undertake biodiversity offsetting and is constrained by a definition that could have since been advanced.

10 See **Appendix 5** at section 3.

7.3 Having had the opportunity to consider the evidence of Mr Barea and Mr Deavoll for DOC, I sought advice from the Council's ecologist Mr Davis on the merits of this, Mr Davis has provided me with the following advice, with reference to the paragraph numbers of Mr Barea's primary evidence:[11]

> *Para. 47: I support the proposed alternative text for Policy 33.2.1.8, with a minor amendment to the first line, whereby 'significant indigenous vegetation or indigenous fauna' is reworded to 'indigenous biodiversity', to encompass all biodiversity values. The alternative policy provides a clear structure for managing the impacts of proposed activities within the District.*
>
> *Para. 49: I support the inclusion of the Biodiversity Offsets definition. It provides required clarity and understanding around Policy 33.2.1.8.*
>
> *Para. 50: if compensation is to be included in Policy 33.2.1.8, then I agree that the definition provided must be included in the Plan. However, I think that compensation should not be included because it does not align with the Objective (33.2.1) in that it does not require a measurable and long-term biodiversity improvement.*
>
> *Para. 51: I support the framework/schedule proposed. It provides clarity, understanding and consistency as to how biodiversity offsetting will operate within the District, while being in line with national guidance.*

7.4 I refer to and rely on the advice of Mr Davis in terms of the technical ecological merits of the requests by DOC. From a planning perspective, I am comfortable with the phrasing of the policy, its location within Chapter 33 under Objective 33.2.1, the definition, and the schedule. I also support the requested definitions of biodiversity

11 See **Appendix 5** at section 4.

offsetting (with Mr Davis's suggested amendment), no-net loss and environmental compensation as suggested by DOC. These changes are shown in the recommended revised chapter at **Appendix 1**.

7.5 As discussed in the planning reply for the Rural Chapter, I do not entirely agree with Mr Vivian for NZTM (#519) where NZTM seeks to use the phrase offsetting loosely for what appears to be more suited to environmental compensation for effects on other values, such as landscape or recreational values. With regard to this I refer to and accept Mr Barea's description of *'Compensation V Offsets'* in paragraph 32 of his evidence.

7.6 My understanding of Mr Barea's and Mr Deavoll's suggestion for a definition of environmental compensation is not so much to promote this method but to provide a clear distinction between 'compensation' and 'offsets'. I also consider that other environmental elements can be added to it without detracting from the key message emphasised by DOC. Another reason for this is that 'environmental compensation' could be applied more broadly across the PDP and not just to do with biodiversity. In addition, I agree with Mr Davis and do not recommend environmental compensation is included in a policy in the Indigenous Vegetation Chapter. However, I do note that this phrase is specified elsewhere in the Rural Chapter in a recommended policy to do with mineral extraction and in the Landscape Assessment matters.[12]

7.7 For these reasons I recommend a definition of 'environmental compensation' is added to the PDP. This is shown in the recommended revised chapter at **Appendix 1**.

8. ECOSYSTEM SERVICES

8.1 The Panel queried whether there was merit in including reference to ecosystem services. Ecosystem services is defined in Chapter 2 of the PDP as:

12 Refer to Recommended Policy 22.5.6 and Assessment Matters 21.7.3.3 (c) and (e).

Ecosystem Services	Are the resources and processes the environment provides that people benefit from (for example purification of water and air, pollination of plants and decomposition of waste).

8.2 I note that the QLDC's corporate submission (#383) seeks the definition is modified as follows:

Ecosystem Services	Ecosystem services are categorised as 'provisioning', such as food, timber and freshwater; 'regulating', such as air quality, climate and pest regulation; 'cultural' such as recreation and sense of belonging; and 'supporting', such as soil quality and natural habitat resistance to weeds.

8.3 Submitters Evan Alty (#339) and Forest and Bird (#706) seek that a reference to ecosystem services is made in the first paragraph to part 33.1 'Purpose Statement'. I did not support the inclusion of this phrase in the purpose statement because there were no corresponding provisions in the statutory components of the chapter.

8.4 If the Panel were of the view that this phrase should be included I suggest that it could be added to Policy 33.2.1.7 as indicated:

Policy 33.2.1.7 *Activities involving the clearance of indigenous vegetation are undertaken in a manner to ensure the District's indigenous biodiversity values <u>and ecosystem services</u> are protected, maintained or enhanced.*

8.5 I have not shown this in the recommended revised chapter at **Appendix A** as I continue to consider that it is inappropriate if there are no corresponding provisions in the statutory components of the chapter.

9. 'APPLICATION OF WATER' IN DEFINITION OF 'CLEARANCE OF INDIGENOUS VEGETATION'

9.1 JBIL (#784) submit that by including water in the definition of clearance, the section 32 evaluation report does not state the costs to farming associated with the definition of clearance of vegetation. I consider this is incorrect as the costs to farming are the same for any other element in the definition that restricts the clearance of

indigenous vegetation, such as cultivation or spraying with herbicide. The identification of water as a means of indigenous vegetation clearance is no different in effect on certain indigenous vegetation, than spraying with herbicide and resultant cultivation.

9.2 Including this activity in the definition of clearance provides certainty, as the definition has the phrase 'includes' and not 'means'. Therefore the activities specified are not exhaustive. It would lead to uncertainty if the application of water was removed because a landowner could be accused of clearance without knowing that this activity does have a clearance effect in certain circumstances.

9.3 I also refer to and rely on the section 32 evaluation report and evidence of Mr Davis on this matter. I recommend the definition is retained as notified.

10. OBJECTIVES AND POLICIES

10.1 Otago Fish and Game (#788) seeks an additional policy to manage the impacts of tussock removal and water yield in dry catchments and considers that there is not enough emphasis on streamside management, or trout and salmon. I note that trout and salmon are not indigenous species. While I understand the desire for management of streamside vegetation clearance, the Council's functions under s31 of the RMA and the Indigenous Vegetation Chapter do not manage the removal of exotic vegetation (except where identified as part of a habitat in the SNA schedule).

10.2 I do note however that there is a rule in the PDP that restricts indigenous vegetation clearance within 20m of a water body, in terms of riparian area protection overall. Overall, I consider the revised chapter is appropriate.

11. EXEMPTIONS FOR UTILITIES AND THE NATIONAL GRID

11.1 Transpower (#805) has sought an exemption from the indigenous vegetation clearance rules in SNAs, if it relates to the operation, upgrade and maintenance of the National Grid. Not only does this

relief raise interpretation issues in terms of the application of the National Environmental Standards for Electricity Transmission Activities (**NESETA**), it also raises an interesting proposition – that an SNA is a natural area for some purposes, but not others.

11.2 I accept that an outcome that requires Transpower to obtain consent for this activity would be an anomaly when compared to the position of other utilities.

11.3 However, the matter at issue is that the NESETA trumps a district plan and in this instance any clearance within SNA F40A would require a restricted discretionary activity resource consent pursuant to Regulation 32 (1)(a)(i) of the NESETA. I otherwise refer to the Legal Right of Reply, on this matter.

12. NON-COMPLYING ACTIVITY STATUS FOR INDIGENOUS VEGETATION CLEARANCE

12.1 Both DOC (#373) and Forest and Bird (#706) seek that a non-complying status is included for clearance within SNAs. On the face of the reasons sought, I agree. However I am concerned that there could be unintended disparity created between scheduled SNAs that are identified on the Planning Maps and in Schedule 33.8, and areas that are identified as significant through the assessment of development proposals and the application of the Significance Criteria in policy 33.2.1.10.

12.2 Such a scenario could be that where indigenous vegetation is identified as being significant through a resource consent application, there is an assumption, or a case argued by proponents that because the indigenous vegetation is significant, but had not previously been identified by the Council, and the activity status is discretionary, that it is an easier path for approval. Or, alternatively, that by a pervasive coupling of activity status the significant (but not scheduled) indigenous vegetation is not important because the activity status is not non-complying.

12.3 While I acknowledge that this perspective is based on a rather negative view of a case that could be put forward by a proponent, I consider that it is more appropriate to keep the activity status at discretionary. I consider that the policy framework is sufficiently robust to protect areas of significance, both scheduled areas and those that are not, where this is necessary.

12.4 For these reasons I consider that the activity status for clearance of SNA's should be discretionary as notified.

13. SCHEDULED SNA AREAS

13.1 I refer to and rely on Mr Davis evidence attached as an appendix to the s42a report that the recommendations on the SNAs should be retained.

14. CONCLUSION

14.1 Overall, I consider that the revised chapter as set out in **Appendix 1** is the most appropriate way to meet the purpose of the RMA.

Craig Barr
Acting Policy Planning Manager
3 June 2016