

BEFORE THE COMMISSIONERS ON BEHALF OF THE Dunedin City Council

IN THE MATTER The Resource Management Act 1991

AND

IN THE MATTER Variation 2 to the Second-Generation District Plan (2GP)

**STATEMENT OF EVIDENCE OF ANITA JAYNE DAWE ON BEHALF OF THE
OTAGO REGIONAL COUNCIL**

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MAY IT PLEASE THE COMMISSIONERS:

Introduction

1 My full name is Anita Jayne Dawe. I am the Policy and Planning Manager at the Otago Regional Council (ORC).

Qualifications and Experience

2 I hold the qualifications of Bachelor of Arts (Geography and Economics) and a Masters in Regional and Resource Planning, both from the University of Otago. I am an Intermediate Member of the New Zealand Planning Institute and a member of the Resource Management Law Association.

3 I have almost 20 years' planning experience working in both local government and the private sector. During this time, I have been:

- Employed as a Consents Officer for the Central Otago District Council from 2004 to 2010 processing resource consents, warranted as a Compliance and Enforcement Officer, and assisting with policy development.
- Employed as a Senior Planner and latterly, Planning Manager, for a small surveying and planning firm, working for a range of small and large private clients, applying for resource consents ranging from hydro electricity generation, subdivision and land use consents, to water and discharge permits, across the South Island.
- Employed as Planning Manager at the Southland Regional Council (2014 - 2018) and responsible for the operative Regional Policy Statement, the proposed Southland Water and Land Plan, and ancillary minor plan changes and bylaw reviews.
- While working for a consultancy, contracted to the Central Otago District Council (July 2018 – March 2019) as their acting Consents Manager, responsible for all resource consent functions, all compliance and

monitoring and enforcement. I continued to assist the Central Otago District Council with consent processing for a short time after March 2019.

- While working for a consultancy, contracted to the Otago Regional Council (June 2018 – May 2020) as their Acting Policy Manager, responsible for managing appeals to the Queenstown Lakes District Plan and the Dunedin City 2GP, responsible for overseeing the RPS, and other statutory planning functions.
- Since May 2020, I have been permanently employed by the ORC as its Policy and Planning Manager.

- 4 I have extensive experience in territorial resource consenting, including as applicant and as a processing planner. I have prepared applications across the South Island for a range of activities.
- 5 I have over seven years' experience in compliance, monitoring and enforcement, including most recently for the Central Otago District Council while engaged as their Acting Consents Manager.
- 6 I have extensive experience in policy development and planning and have been involved in the Southland Regional Policy Statement, the proposed Southland Water and Land Plan and Plan Changes 6AA, 7 and 8 to the Regional Plan: Water and Plan Change 1 to the Regional Plan: Waste in Otago, and the proposed Otago Regional Policy Statement which was notified in June of this year.
- 7 I also have extensive mediation experience, over some 14 years of practice, including mediation on the Southland RPS, the pSWLP, the Invercargill City District Plan, the Southland District Plan, the Queenstown Lakes District Plan and the Dunedin City District Plan, and the Regional Plan: Water for Otago and the partially operative Otago RPS.

Code of Conduct

- 8 While this is a Council hearing, I acknowledge that I have read and agree to comply with the Environment Court's Code of Conduct for Expert Witnesses, contained in the Environment Court Practice Note 2014. I have complied with the code in preparing my evidence.

- 9 The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence to follow.
- 10 Unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Material considered

- 11 In preparing this evidence, I have reviewed the following documents:
- (a) Variation 2 to the Second-Generation District Plan (2GP); and
 - (b) The s42A report prepared by Emily McEwan and Paul Freeland; and
 - (c) The technical evidence from Dr Jean-Luc Payan, Manager Natural Hazards at the Otago Regional Council; and
 - (d) The technical evidence from Michelle Mifflin, Manager Engineering at the Otago Regional Council; and
 - (e) The National Policy Statement for Freshwater Management 2020; and
 - (f) The National Policy Statement for Urban Development 2020; and
 - (g) The 2019 partially operative Regional Policy Statement; and
 - (h) The proposed Otago Regional Policy Statement 2021.

Reason for Submission

- 12 I directed and co-authored the submission on Variation 2 lodged with the Dunedin City Council, in my role as Policy and Planning Manager at the Otago Regional Council.
- 13 Part of the role of the ORC policy team is to assess plan changes, variations to plans and resource consent applications to ensure they are consistent with the RPS. This role, in practical terms, means that ORC submits, either in support of or opposition to resource management proposals on a regular basis. The submissions are directed toward whether particular activities are consistent with the RPS.

- 14 ORC also submits, from time to time, on operational matters including buildings or works in or on flood schemes, and for natural hazards reasons.

Scope of Evidence

- 15 My evidence will address the following:

- (a) The reasons ORC is involved in this process
- (b) An outline of the relevant legislative context for ORC's submission; and
- (c) Any changes that ORC seeks to the notified Variation.

Why is the Otago Regional Council engaged in Variation 2 ?

- 16 ORC has functions in relation to flood management, infrastructure and natural hazards, as set out in the evidence of Dr Payan and Ms Mifflin. These functions need to be protected to ensure safety and wellbeing of people and communities.
- 17 ORC has functions under the NPSUD.
- 18 ORC has functions under the NPSFM.
- 19 ORC has duties and obligations in respect of RPS' s.

Legislative Framework

Resource Management Act

- 20 The Resource Management Act 1991 (the Act) sets out a framework for managing urban development at a broad level. The purpose of the Act is to promote the sustainable management of natural and physical resources.
- 21 Section 6 identifies the matters of national importance. It requires all persons exercising functions and powers under it to recognise and provide for a range of matters but none of these bear direct relevance to this matter.
- 22 Section 7 of the Act sets out the following:

7 Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (a) kaitiakitanga:*
- (aa) the ethic of stewardship:*
- (b) the efficient use and development of natural and physical resources:*
- (ba) the efficiency of the end use of energy:*
- (c) the maintenance and enhancement of amenity values:*
- (d) intrinsic values of ecosystems:*
- (e) [Repealed]*
- (f) maintenance and enhancement of the quality of the environment:*
- (g) any finite characteristics of natural and physical resources:*
- (h) the protection of the habitat of trout and salmon:*
- (i) the effects of climate change:*
- (j) the benefits to be derived from the use and development of renewable energy.*

- 23 Of particular relevance in relation to s 7 are clauses (b), (f), (g) and (i), with respect to urban development, providing for infrastructure, and ensuring resilience for communities who will have to manage for climate change.

National Policy Statement for Freshwater Management 2020

- 24 The National Policy Statement for Freshwater Management 2020 (the NPSFM) has a hierarchy of obligations, the first of which is to prioritise the health and wellbeing of freshwater and freshwater ecosystems.

- 25 It is founded on a premise, or fundamental concept of Te Mana o te Wai.¹ It is described as a...

concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.

- 26 The NPSFM notes that the concept of Te Mana o te Wai is relevant to all freshwater management rather than being limited to just the aspects referred to in the NPSFM.

¹ Clause 1.3 of the NPFM 2020

- 27 Te Mana o Te Wai has six principles that set out the roles of tangata whenua and other New Zealanders in managing freshwater. Those principles are set out below, and inform both the NPZFM, and its implementation.
- (a) *Mana whakahaere*: the power, authority, and obligations of tangata whenua to make decisions that maintain, protect, and sustain the health and well-being of, and their relationship with, freshwater
 - (b) *Kaitiakitanga*: the obligation of tangata whenua to preserve, restore, enhance, and sustainably use freshwater for the benefit of present and future generations
 - (c) *Manaakitanga*: the process by which tangata whenua show respect, generosity, and care for freshwater and for others
 - (d) *Governance*: the responsibility of those with authority for making decisions about freshwater to do so in a way that prioritises the health and well-being of freshwater now and into the future
 - (e) *Stewardship*: the obligation of all New Zealanders to manage freshwater in a way that ensures it sustains present and future generations
 - (f) *Care and respect*: the responsibility of all New Zealanders to care for freshwater in providing for the health of the nation.
- 28 Te Mana o te Wai contains a hierarchy of obligations that prioritises:
- (a) *first, the health and well-being of water bodies and freshwater ecosystems*
 - (b) *second, the health needs of people (such as drinking water)*
 - (c) *third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.*
- 29 The hierarchy within Te Mana o te Wai is replicated in the sole objective of the NPSFM which is to ensure that
- natural and physical resources are managed in a way that prioritises:*
- (a) *first, the health and well-being of water bodies and freshwater ecosystems*
 - (b) *second, the health needs of people (such as drinking water)*
 - (c) *third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future².*
- 30 The sole objective of the NPSFM, which encapsulates Te Mana o te Wai, incorporates the environment as a whole, in a holistic way. This means that it applies to both the use of, and development of, land, as well as freshwater.

² Objective 2.1 NPSFM 2020

- 31 There are 15 policies that sit under Objective 2.1 of the NPSFM. Those policies are set out in full below, but of particular relevance to Variation 2, are policies 1, 3,4,5, and 15.

Policy 1: *Freshwater is managed in a way that gives effect to Te Mana o te Wai.*

Policy 2: *Tangata whenua are actively involved in freshwater management (including decision-making processes), and Māori freshwater values are identified and provided for.*

Policy 3: *Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.*

Policy 4: *Freshwater is managed as part of New Zealand's integrated response to climate change.*

Policy 5: *Freshwater is managed through a National Objectives Framework to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.*

Policy 6: *There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.*

Policy 7: *The loss of river extent and values is avoided to the extent practicable.*

Policy 8: *The significant values of outstanding water bodies are protected.*

Policy 9: *The habitats of indigenous freshwater species are protected.*

Policy 10: *The habitat of trout and salmon is protected, insofar as this is consistent with Policy 9.*

Policy 11: *Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided.*

Policy 12: *The national target (as set out in Appendix 3) for water quality improvement is achieved.*

Policy 13: *The condition of water bodies and freshwater ecosystems is systematically monitored over time, and action is taken where freshwater is degraded, and to reverse deteriorating trends.*

Policy 14: *Information (including monitoring data) about the state of water bodies and freshwater ecosystems, and the challenges to their health and well-being, is regularly reported on and published.*

Policy 15: *Communities are enabled to provide for their social, economic, and cultural well-being in a way that is consistent with this National Policy Statement.*

- 32 The NPSFM sets out a range of obligations for local authorities. The obligation applies equally to territorial authorities and regional councils. In particular, Clause 3.5 Integrated management which states:

Adopting an integrated approach, ki uta ki tai, as required by Te Mana o te Wai, requires that local authorities must:

(a) recognise the interconnectedness of the whole environment, from the mountains and lakes, down the rivers to hāpua (lagoons), wahapū (estuaries) and to the sea; and

(b) recognise interactions between freshwater, land, water bodies, ecosystems, and receiving environments; and

(c) manage freshwater, and land use and development, in catchments in an integrated and sustainable way to avoid, remedy, or mitigate adverse effects, including cumulative effects, on the health and well-being of water bodies, freshwater ecosystems, and receiving environments; and

(d) encourage the co-ordination and sequencing of regional or urban growth.

- 33 Clause 3.5 (4) sets out responsibilities for territorial authorities to provide for the health and well-being of water bodies, freshwater ecosystems and receiving environments.³

National Policy Statement on Urban Development 2020

- 34 There are several provisions in the NPSUD that relate to the rezoning of land and specifically the provision of infrastructure. Objective 1⁴ of the NPSUD is a generic objective that broadly mimics Part 2 of the Act and while relevant, does not provide detailed assistance.
- 35 Objective 8⁵ has a focus on resilience in relation to climate change which has a more direct application in this instance.

³ Clause 3.5(4) Every territorial authority must include objectives, policies, and methods in its district plan to promote positive effects, and avoid, remedy, or mitigate adverse effects (including cumulative effects), of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments.

⁴ Objective 1: New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

⁵ Objective 8: New Zealand's urban environments: support reductions in greenhouse gas emissions; and are resilient to the current and future effects of climate change.

- 36 Policy 10⁶ is also relevant and directs that integrated land use and infrastructure planning.
- 37 The NPSUD also helpfully sets out what is meant by the terms *plan enabled* and *infrastructure ready*, at Clause 3.4.

Partially operative Regional Policy Statement 2019

- 26 The relevant provisions from the partially operative RPS 2019(PORPS19) in relation to this topic have been made operative. These provisions are therefore accorded full weight under section 104 of the Act.
- 27 The PORPS19 contains a range of relevant Objectives and Policies and I will not set them out in full in here.
- 28 Policy 1.1.2 is a general provision that requires the social and cultural wellbeing and health and safety of people to be provided. The policy articulates that promoting community resilience and the need to secure resources as one of the ways that wellbeing should be provided, and the promotion of good quality and accessible infrastructure and public services as another.
- 29 Policy 1.2.1 Focuses on integrated resource management and seeks this to be achieved in a number of ways. This policy is set out in full, and in particular, clauses (a),(b),(c),(e) and (f) are of most relevance.

Policy 1.2.1 Integrated resource management

Achieve integrated management of Otago's natural and physical resources, by all of the following:

- a) Coordinating the management of interconnected natural and physical resources;*
- b) Taking into account the impacts of management of one natural or physical resource on the values of another, or on the environment;*
- c) Recognising that the value and function of a natural or physical resource may extend beyond the immediate, or directly adjacent, area of interest;*
- d) Ensuring that resource management approaches across administrative boundaries are consistent and complementary;*
- e) Ensuring that effects of activities on the whole of a natural or physical resource are considered when that resource is managed as subunits.*
- f) Managing adverse effects of activities to give effect to the objectives and policies of the Regional Policy Statement.*
- g) Promoting healthy ecosystems and ecosystem services;*

⁶ Policy 10: Tier 1, 2, and 3 local authorities: that share jurisdiction over urban environments work together when implementing this National Policy Statement; and engage with providers of development infrastructure and additional infrastructure to achieve integrated land use and infrastructure planning; and engage with the development sector to identify significant opportunities for urban development.

h) Promoting methods that reduce or negate the risk of exceeding sustainable resource limits.

- 30 Policy 3.1.2 sets out how to manage the beds of rivers, lakes, wetlands and their margins, including by maintaining good water quality or enhancing it where it has been degraded,⁷ and requires avoiding, remedying or mitigating the adverse effects of natural hazards, including flooding and erosion⁸.
- 31 Policy 3.1.3 Water allocation and use, and Policy 3.1.4 Water shortage both have a focus on development or upgrading of infrastructure, including water harvesting and encouraging land management techniques that improves moisture capture, infiltration, and soil moisture holding capacity.⁹
- 32 Objective 4.1 of the PORPS19 is about natural hazards, and risks. Of particular relevance are Policies 4.1.3 and 4.1.4 which seek to understand the consequence of natural hazards, and the risk to activities from natural hazards, and Policy 4.1.5 which speaks to managing natural hazard risk to people, property and communities, including understanding tolerance of the risk and the need to encourage system resilience.
- 33 Policy 4.1.9 requires the avoidance, remediation or mitigation of adverse effects on natural or modified features and systems that contribute to mitigation the effects of both natural hazards and climate change, and Policy 4.2.2 seeks to ensure people and communities are able to mitigate and adapt to the effects of climate change.
- 34 Objective 4.3 and the associated policies have a focus on infrastructure and seek to ensure it is managed and developed in a sustainable manner.
- 35 Policy 4.3.1 is particularly relevant and is set out in full below. Clauses (b), (c) and (e) are particularly applicable to Variation 2.

Policy 4.3.1 Managing infrastructure activities

Recognise and provide for infrastructure by all of the following:

- a) Protecting and providing for the functional needs of lifeline utilities and essential or emergency services;*
- b) Increasing the ability of communities to respond and adapt to emergencies, and disruptive or natural hazard events;*
- c) Improving efficiency of natural and physical resource use;*

⁷ Policy 3.1.2(a) partially operative RPS 2021

⁸ Policy 3.1.2(g) partially operative RPS 2021

⁹ Policy 3.1.4(a)

- d) Minimising adverse effects on existing land uses, and natural and physical resources;*
- e) Managing other activities to ensure the functional needs of infrastructure are not compromised.*

- 36 Objective 4.5 and its associated policies focus on providing well designed, strategic urban growth. In particular, Policy 4.5.1(e) requires
- e) Coordinating the development and the extension of urban areas with infrastructure development programmes, to provide infrastructure in an efficient and effective way.*
- 36 Policy 4.5.2 seeks to ensure strategic integration of infrastructure with land use, including by recognising and providing for the functional needs of infrastructure, and considering the effects of climate change, and natural hazard risk. Policy 4.5.2 is set out in full below.

Policy 4.5.2 Integrating infrastructure with land use

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

- a) Recognising and providing for the functional needs of infrastructure;*
- b) Locating and designing infrastructure to take into account all of the following:*
 - i. Actual and reasonably foreseeable land use change;*
 - ii. The current population and projected demographic changes;*
 - iii. Actual and reasonably foreseeable change in supply of, and demand for, infrastructure services;*
 - iv. Natural and physical resource constraints;*
 - v. Effects on the values of natural and physical resources;*
 - vi. Co-dependence with other infrastructure;*
 - vii. The effects of climate change on the long-term viability of that infrastructure;*
 - viii. Natural hazard risk.*
- c) Coordinating the design and development of infrastructure with land use change in growth and redevelopment planning.*

- 37 Policy 4.5.4 encourages the use of low impact design techniques in subdivision and development to reduce demand on three waters infrastructure.

Proposed Otago RPS 2021

- 37 The proposed Otago RPS 2021 (pRPS) was notified on 26 June 2021, and the Summary of Decisions Requested was made available in November for further submissions, and a further corrigendum notified in late November for a small number of corrected submission points.
- 38 The pRPS has not been tested through any hearing process yet and while it has relevant provisions, the weight of consideration should be with the partially operative RPS.

Variation 2 and 2GP Relevant Provisions

39 The relevant provisions from the 2GP include Strategic Objective 2.2.2.2 Energy Resilience, which is proposed to be amended by Variation 2 to include consideration of stormwater.

40 Policy 2.7.1.2 focuses on ensuring areas of new development have the least possible long-term cost to the public, including through infrastructure provision.

41 There is a suite of policies that sit under Objective 9.2.1 which states that:

Land use, development and subdivision activities maintain or enhance the efficiency and affordability of public water supply, wastewater and stormwater infrastructure.

42 The policies under Objective 9.2.1 would all be supported to be achieved by the provision of infrastructure, and particularly stormwater.

S42A Report

43 Unless otherwise specifically stated in this section, I agree with the recommendations made by Ms McEwan and Mr Freeland.

44 ORC broadly supports the Dunedin City Councils (the City) position in relation to provision of infrastructure. The reasons for this are set out in the evidence of Dr Payan and Ms Mifflin. In addition, ORC considers that the infrastructure provisions support ORC's statutory functions in relation to water quality.

Policy 2.2.5.2

45 As part of Variation 2, the City is proposing to delete Strategic Objective 2.2.5, and the associated policies. ORC submitted in opposition to the deletion of Policy 2.2.5.2.

46 Objective 2.2.5, and Policy 2.2.5.2 are set out below and state:

Objective 2.2.5 Environmental Performance

Development in the city is designed to reduce environmental costs and adverse effects on the environment as much as practicable, including energy consumption, water use, and the quality and quantity of stormwater discharge.

Policy 2.2.5.2

Enable and encourage on-site stormwater and wastewater management, where this would not endanger groundwater and is not in conflict with the efficient use of existing public, wastewater and stormwater infrastructure, through rules that provide for an alternative to connecting to public water supply, wastewater and stormwater infrastructure.

- 47 ORC supported the retention of Policy 2.2.5.2 because, in my opinion, the provision in part, addresses the provisions of the NPSFM in terms of protecting water quality, and in particular Clause 3.5(3) and 3.5(4).
- 48 I understand the rationale for removing the provision is that it is not implemented in the current Plan and the proposed provisions for stormwater and wastewater management replace it through Variation 2.
- 49 In my opinion, I believe the policy should be reframed, and retained to support, at a Strategic Level, the amended Objective 2.2.2.
- 50 Amended Objective 2.2.2 currently states:

Objective 2.2.2 Energy Resilience (to be amended to Environmental Performance and Energy Resilience)

Dunedin reduces its environmental costs and reliance on nonrenewable energy sources as much as practicable, including energy consumption, water use, and the quality and quantity of stormwater discharge, and is well equipped to manage and adapt to changing or disrupted energy supply by having:

- a. Increased local renewable energy generation;*
- b. Reduced reliance on private motor cars for transportation;*
- c. Increased capacity for local food production; and*

d. *Housing that is energy efficient.*

51 In addition to Objective 2.2.2, new Policy 2.2.2 states

Policy 2.2.2

Enable and encourage ~~on-site~~ low impact design stormwater management through policies and assessment rules that require stormwater management in new development mapped areas.

52 ORC supports the above changes but, in my opinion, there is a policy vacuum in the Strategic Objectives in relation to development that is not in a new development mapped area (NDMA) or is otherwise outside of a reticulation network.

53 The retention and refocusing of Policy 2.2.5.2 would address this policy vacuum and ensure the City, in part, addresses Clause 3.5(4) of the NPSFM.

54 To address the vacuum, I recommend the following in relation to 2.2.5.2 (further amendments proposed by me are in underlined and in red);

Policy 2.2.5.2

~~Enable and encourage~~ Only allow on-site stormwater and wastewater management outside of reticulated areas, where this would not endanger avoid, remedy or mitigate adverse effects (including cumulative effects) on the health and well-being of water bodies, freshwater ecosystems, and receiving environments. ~~groundwater and is not in conflict with the efficient use of existing public, wastewater and stormwater infrastructure, through rules that provide for an alternative to connecting to public water supply, wastewater and stormwater infrastructure.~~

55 The amended policy above would satisfy the relief ORC sought, by ensuring freshwater was protected from non- reticulated servicing, and compliments Policy 2.2.2.Y.

Definition of Public Infrastructure

- 56 ORC submitted to make a minor change to the definition of public infrastructure. It is currently defined as:

Public Infrastructure consists of:

- *The public reticulated systems of pipes and associated accessory structures, and in the case of stormwater infrastructure may include drains and open channels owned and managed by the DCC, that enable the management and distribution of stormwater, wastewater or water supply. This excludes any private stormwater, wastewater or water supply systems or structures; and...*

- 57 ORC's submission sought the removal of the word ' may ' and clarification that the definition only applies to the City's infrastructure, rather than extending to ORC's assets.

- 58 The s42A report accepts removing the word 'may' but also seeks to include, rather than exclude ORC's assets.

- 59 The proposed definition in the s42A report is as follows:

The public reticulated systems of pipes and associated accessory structures, and in the case of stormwater infrastructure ~~may~~ includes drains, flood management schemes, and open channels owned and managed by the DCC or the Otago Regional Council, that enable the management and distribution of stormwater, wastewater or water supply. This excludes any private stormwater, wastewater or water supply systems or structures; and

- 60 ORC is supportive of this change and would note that, as well as having flood management schemes, we also operate land drainage schemes. It would be appropriate to also include land drainage schemes in the definition. I therefore propose the following (further amendments proposed by me are double underlined and in red);

The public reticulated systems of pipes and associated accessory structures, and in the case of stormwater infrastructure ~~may~~ includes drains, flood management schemes, land drainage schemes and open channels owned and managed by the DCC or the Otago Regional Council, that enable the management and

distribution of stormwater, wastewater or water supply. This excludes any private stormwater, wastewater or water supply systems or structures; and

- 61 While ORC originally sought the exclusion of its infrastructure, we support the reasoning behind its inclusion as set out in the s42A report, except as amended above.

Policy 9.2.1.Z

- 62 The s42A report, as a consequence of the amendment to the definition to include ORC's infrastructure, has proposed changes to Policy 9.2.1.Z.

- 63 Policy 9.2.1.Z is proposed as follows:

Only allow multi-unit development; supported living facilities; subdivision; or development that contravenes the impermeable surfaces performance standard, where:

- a. *For stormwater generated by the activity (or future development enabled by a subdivision) that will flow through DCC stormwater public infrastructure at any point;*
- I. *There is adequate capacity in the stormwater public infrastructure; or*
- II. *Any adverse effects from an increase in discharge on the stormwater public infrastructure are no more than minor; and*
- b. *For stormwater generated by the activity(or future development enabled by a subdivision) that will flow through a private, ~~Otago Regional Council~~, or natural/informal stormwater system, or ~~Otago Regional Council stormwater public infrastructure~~ at any point, that stormwater system has the capacity to absorb the additional stormwater with no more than minor adverse effects on it or on other sites(public or private), including but not limited to, adverse effects from an increase in overland flow or ponding.*

64 As set out in the evidence from Dr Payan and Ms Mifflin, ORC's infrastructure is not designed for, or classified as stormwater infrastructure. I therefore recommend that Policy 9.2.1.Z be amended to strike out the word 'stormwater' in relation to ORC's public infrastructure. The policy can simply refer to ORC's public infrastructure given the amendments to the definition that ORC supports as set out in paragraphs 56 and 57 above; or could more correctly change the Policy to refer to ORC's flood hazard and land drainage infrastructure. Either of these solutions would be acceptable to ORC.

65 For completeness, I have set out clause (b) below, with additional changes marked up, as an either/or option for consideration. From a policy perspective, I consider either options below satisfactory but from a technical perspective, I understand Dr Payan and Ms Mifflin prefer the second, because of its specificity:

b. For stormwater generated by the activity(or future development enabled by a subdivision) that will flow through a private, ~~Otago Regional Council~~, or natural/informal stormwater system, or Otago Regional Council stormwater public infrastructure at any point, that stormwater system has the capacity to absorb the additional stormwater with no more than minor adverse effects on it or on other sites(public or private), including but not limited to, adverse effects from an increase in overland flow or ponding.

or;

For stormwater generated by the activity(or future development enabled by a subdivision) that will flow through a private, ~~Otago Regional Council~~, or natural/informal stormwater system, or Otago Regional Council stormwaterflood protection schemes or land drainage public infrastructure at any point, that stormwater system has the capacity to absorb the additional stormwater with no more than minor adverse effects on it or on other sites(public or private), including but not limited to, adverse effects from an increase in overland flow or ponding.

66 I would also request that any consequential changes are made to other relevant provisions, including rules, to align with the changes I have proposed.

Rule 9.9X

67 Dr Payan and Ms Mifflin have reviewed the proposed amendments to Rule 9.9X, which I will not set out here, and from a technical perspective, support those changes, except where stated.

68 Rule 9.9X(3) sets out the requirements for stormwater management plans and has been designed to replicate private development agreements (PDA) that have formed part of the appeals to the 2GP.

69 The PDA's helpfully have an overarching objective which is to

The stormwater management plan must ensure that stormwater will be managed in a way that, both within the mapped area and the wider catchment, and for both the current climatic conditions and climate conditions based on climate change predictions:

i. Ensures personal safety;

ii. Minimises the risk of surface water flooding to acceptable levels;

iii. Protects public and private property from inundation; and

Minimises adverse effects to the environment, including aquatic ecology, from stormwater runoff.

70 This outcome focused statement is missing from Rule 9.9X(3) and without it, the important contextual information for both applicants and processing planners is missed.

71 ORC seeks that the wording as set out in paragraph 69 is inserted into Rule 9.9X(3) in a way that aligns with the 2GP style guide.

72 From a policy perspective, I consider the changes proposed to Rule 9.9X are suitable to achieve certainty in relation to stormwater management, assist the

City in addressing their statutory responsibilities, including those under the NPSFM, and the inclusion of mechanisms to account for climate change, provides a level of resilience for communities facing the impacts of climate change.

- 73 The exception is in Rules 9.9.X(2) and 9.9X(4) where the rules provide that stormwater management outside of a NDMA does not have the same standards and conditions as the balance of Rule 9.9X in areas that are NDMA.
- 74 From an ORC infrastructure perspective, there is no reason to apply a potentially lesser standard to areas that are not mapped as new development areas. This is equally the case for wider environmental effects. A requirement to manage infrastructure will avoid adverse effects in some instances, and otherwise remedy or mitigate other effects.
- 75 From a policy perspective, I consider that there is significant risk that additional development, outside of the areas identified, could be undertaken without the same integrity for stormwater management. This has the potential to create adverse effects, including risks to ground and surface water quality resulting from a lesser standard of infrastructure which may be significant, and result in impacts on ORC's infrastructure, and could increase the likelihood and frequency of flooding on downstream properties.
- 76 I therefore consider that the matters set out in Rule 9.9X(3) should equally apply, irrespective of whether the area is a NDMA or not. ORC understands that the Rule has been drafted to provide some flexibility in when a stormwater management plan should apply, commensurate with the size and scale of the proposal. ORC considers the flexibility should be built into which elements of the stormwater management plan apply, rather than in the requirement for a plan. In other words, ORC considers all developments should require a stormwater management plan to be developed and lodged with the application and depending on size and scale, the content of these plans would vary to ensure an appropriate response in each circumstance.

Rule 9.6.2

77 Rule 9.6.2X sets out a range of assessment matters. In particular I will provide comment on matters 3 and 4.

78 Matters 3 and 4 currently state

3. Risks from property inundation; and

4. Risks to the ability of Council to meet its consent conditions for public infrastructure, which could lead to effects on aquatic ecology.

79 With regard to matter 3, I consider this matter to be unclear, and propose redrafting as follows, based on my understanding of the intent:

3. Risks ~~from property inundation~~ to property from inundation

80 With regard to matter 4, I consider the wording to be overly narrow, and consider the following to be more appropriate:

4. Risks to the ability of Council to meet its consent conditions for public infrastructure, which could lead to effects on ~~aquatic ecology~~ freshwater quality and ecosystem health.

81 I also consider that an additional assessment guidance matter would benefit the rule, in relation to ORC's infrastructure. I propose the following, as assessment matter 5:

5. Risks to the integrity and function of existing public infrastructure.

Conclusion

79 The ORC has functions in relation to flood management, infrastructure, land drainage and water quality. ORC has considered its position in relation to Variation 2, considering the range of functions we exercise.

80 Variation 2 is supported by the ORC, except as outlined above in relation to a small number of minor changes.

81 I consider that Variation 2 if amended as suggested above, will provide an appropriate planning framework to support urban development and be consistent with 2019 RPS, the NSPFM 2020, the NPSUD, and the overall purpose of the Act.

A handwritten signature in blue ink, appearing to read 'Anita Dawe', is centered on the page. The signature is fluid and cursive, with a large initial 'A'.

Anita Dawe

30 November 2021