BEFORE THE HEARING PANEL

IN THE MATTER	of the Resource Management Act 1991
AND	The Proposed Waitaki District Plan Energy, Infrastructure, Stormwater, Transport, Earthworks, Designations

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Evidence of Murray Brass on behalf of the
Director-General of Conservation / *Tumuaki Ahurei* – Submitter No: 194
Hearing Topic: Energy, Infrastructure, Stormwater,
Transport, Earthworks, Designations
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Executive Summary

1. My evidence addresses a general concern with the impact of withdrawing provisions from the proposed plan, and then addresses specific provisions of the Energy, Infrastructure and Earthworks chapters.
2. Various parts of the proposed plan have been withdrawn as a result of the Government's 'plan stop' requirements. The withdrawn provisions include most of the chapters focussed on protecting specific environmental values (indigenous biodiversity, natural character etc). I consider that, despite those withdrawals, the provisions of the legislation and higher order documents relating to those environmental values still apply to the remaining sections of the plan.
3. I also consider that, in order to understand the effect of the remaining provisions of the proposed plan, submitters and the Panel need to understand which provisions of the Operative District Plan will remain in force.
4. However, the 42A reports have not addressed these matters. They often appear to rely on environmental values being addressed by provisions which have actually been withdrawn, and have left consideration of the operative provisions until after decisions are made on the proposed provisions. I consider that this approach is inadequate, and recommend that these matters need to be addressed as part of the Panel's decision-making process.
5. For the Energy and Infrastructure chapters, I recommend changes to the policies which I consider would improve how these matters are addressed at that level. However, I also consider that significant further work is required on the rules, which requires an exercise beyond the scope of this evidence.
6. For the Earthworks chapter I recommend additions to the policies and rules, although these would require consequential changes in order to work.
7. I do not make specific comments on the Stormwater, Transport and Designations chapters, but am available to answer any question that the Panel may have relating to the DG's submission.

Introduction

1. My full name is Murray John Brass.

2. I have been asked to provide planning evidence on the matters covered in Hearing Stream 2 for the proposed Waitaki District Plan (PDP).

Qualifications and experience

3. I am employed by the Department of Conservation (DOC) in Dunedin as a Senior RMA Planner. I have worked for DOC since 2019.

4. Prior to this I have over twenty years' experience in resource management, including senior and management roles in both consenting and plan development. This includes eight years as a Consents Officer and Senior Consents Officer at the Taranaki then Otago Regional Councils, nine years as Planning and Environment Manager at the Clutha District Council, and four years as Resource Planner / Policy Advisor at the University of Otago.

5. My experience relevant to the current process includes:

   (a) Seventeen years' experience of processing the full range of permits for district and regional councils, including as reporting officer for non-notified and notified applications, and as senior officer at hearings.

   (b) Nine years' also managing the overall planning function for the Clutha District Council, including consent processing, plan changes, council processes, and monitoring and reporting.

   (c) Providing input from local and central government perspectives to the Ministry for the Environment and Ministry for Cities, Environment, Regions and Transport in the development of various national direction documents and legislative change.

   (d) In my role with DOC, providing planning input into policy statement, plan and consent processes around the country, including preparation of submissions, appearance at council and Environment Court hearings, expert witness conferencing and mediation.

   (e) I hold a Bachelor of Science degree (Geology) and a Diploma for Graduates (Ecology / Environment), both from the University of Otago.

6. I am a Full Member of the New Zealand Planning Institute.

Code of Conduct

7. Although this is not a Court hearing, I confirm that I have read the code of conduct for expert witnesses as contained in the Environment Court Practice Note 2023. I have complied with the Practice Note when preparing my written statement of evidence and will do so when I give oral evidence before the hearing.

8. For the avoidance of doubt, in providing this evidence as an expert witness in accordance with the code, I acknowledge that I have an overriding duty to assist the Panel impartially and independently on matters within my area of expertise. The views expressed are my own expert views, and I do not speak as a representative of the Director-General of Conservation (DG).

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. This includes, where relevant:

    a) why other alternative interpretations of data are not supported

    b) any qualification if my evidence may be incomplete or inaccurate without such qualification.

    c) any knowledge gaps and the potential implication of the knowledge gap.

    d) if my opinion is not firm or concluded because of insufficient research or data or for any other reason.

    e) an assessment of the level of confidence and the likelihood of any outcomes specified in my conclusion.

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.

Scope of evidence

11. The DG's submission covered a range of matters. I have focussed my evidence on matters which remain in contention, or where I have comments on the proposed approach or drafting. This includes:

    a) The effect of withdrawing provisions from the proposed plan;

    b) The Energy provisions

    c) The Infrastructure provisions

d) The Earthworks provisions.

12. Where there are elements of the DG's submission that I do not address in my evidence, this reflects that I am generally comfortable with the approach taken in the s42A Report. I remain available for any questions on those matters that the Panel may have. This includes the Stormwater, Transport and Designations chapters, where the DG's submission points have generally been accepted.

13. Where I quote proposed plan provisions, I have used the s42A Report recommendations (as consolidated in the appendices to those reports) as the base version. Where I show my suggestions as tracked changes, they are against that version.

Material considered

14. In preparing my evidence I have read and considered the following documents:

a) The Proposed Waitaki District Plan;

b) The Proposed Waitaki District Plan s32 Reports for earthworks, Infrastructure and Energy, Stormwater, and Transport;

c) The Proposed Waitaki District Plan – exemptions and withdrawn version dated 15 Jan 2026;

d) The DG's submission dated 15 May 2025;

e) The DG's further submission dated 18 May 2026;

f) The Hearing Stream 2 s42A Reports prepared by Briar Belgrave.

Statutory considerations

15. The s32 and s42A reports identify the overall planning context in terms of both the legislation and higher order documents. I generally support the assessment of what matters are relevant, so do not repeat that here.

16. I do however disagree with the s42A report writer on some matters of how the statutory framework should be applied, particularly where exempt provisions were developed in reliance on provisions that are now withdrawn. I address those points when addressing the relevant provisions below.

Withdrawn provisions

17. After the PDP was notified and submissions lodged, the Government passed legislation halting the progress of RMA plans which had not yet started hearings ('plan stop'). As this applied to the PDP, the Waitaki District Council sought and obtained an exemption to allow some parts of the notified plan to proceed. The other parts of the notified plan were then withdrawn.

18. This means that the PDP changes now under consideration are only a partial replacement of the Operative District Plan (ODP). At the conclusion of the process, the new operative plan will comprise of some new provisions from the PDP and some remaining provisions from the ODP.

19. I consider that this process has created some significant issues for the new plan, as follows:

Incomplete provision for higher order documents and legislation

20. In general, the parts of the PDP which support development (energy, infrastructure etc) have been provided the exemption, while the parts of the plan which protect environmental values (ecosystems and indigenous biodiversity, natural character etc) have been withdrawn.

21. However, the purpose and principles of the Resource Management Act 1991 (the Act), the council functions in the Act, and relevant national direction still apply to those environmental values. This includes, *inter alia*, the preservation of natural character in accordance with s6(a), the protection of outstanding natural features and landscapes (s6(b)), the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (s6(c)), the maintenance of indigenous biological diversity (s31((b)(ii)), and giving effect to the NZCPS and NPSIB.

22. In my view the effect of the withdrawal of various parts of the plan is to narrow the options available to the Panel, but it does not remove the obligations under the legislation and higher order documents. To the extent is it within the scope of the exempt provisions and submissions, I consider that the proposed plan is still required to give effect to those protective elements of the legislation and higher order documents. Where there is not scope available to achieve that and the proposed provisions would result in significant conflict with legislation and higher order documents, I consider the Panel will need to give serious consideration to declining those provisions and allowing the relevant ODP provisions to remain in force.

Incomplete provision for district-wide matters

23. The s42A reports generally place significant weight on district-wide and overlay matters being addressed in other topic-specific chapters, and use the avoidance of overlap or repetition as justification for not including provisions within the chapters covered by the s42A reports (for example, Energy s42A Report at paras 287 and 384, Infrastructure s42A Report at paras 390, 400 and 404).

24. However, this is not correct – by and large, the 'other chapters' referred to do not, now, exist.

25. Most of the District Wide Matters chapters and related overlays referred to have been withdrawn from the PDP, including Ecosystems and Indigenous Biodiversity, Natural Character, Natural Features and Landscapes, Historic Heritage Items, Notable Trees, and Sites and Areas of Significance to Māori.

26. These topics are also mostly not addressed at a district-wide level in the ODP – it became fully operative in 2013 so predates the National Planning Standards and much of the subsequent national direction that requires these topics to be specifically addressed. There are no district-wide chapters or provisions for Ecosystems and Indigenous Biodiversity, Natural Character, Natural Features and Landscapes, or Notable Trees, and only very general provisions relating to Heritage Values and Takata Whenua Values.

Inability to understand the full effect of changes

27. The Council has not identified which provisions of the ODP would be retained, and which would be replaced by the new provisions. This was not required at the time of notification as it was a complete plan review, so the entire ODP would fall away. However, the plan change is now, in effect, a partial review (as noted in Waitaki District Council's legal submissions to Hearing Stream 1). Normally such reviews would involve a 'tracked changes' version, so that all parties can see which provisions are being retained, which provisions are amended, and which provisions are to be deleted. This is necessary to allow understanding of what the complete set of final provisions would be, and how the different elements would interact

28. Instead, the Council's legal submissions have simply noted that once the proposed plan is beyond challenge it will "replace the overtaken parts of the currently operative District Plan"[1], without any process to actually identify which parts will be overtaken.

[1] Legal Submissions of Counsel on behalf of Waitaki District Council, 11 August 2026, at 8.

29. This is addressed further in the Reporting Officer's Interim Reply Report for Hearing Stream 1 General Submissions dated 9 September 2026, which states at paras 15-16:

> *"Once decisions are issued on the PDP, a detailed review of the ODP will need to be undertaken to determine which parts are deemed inoperative because they have been replaced by equivalent PDP provisions, and which parts remain operative. The lodgement of any appeals on the PDP will also be relevant to this process.*
>
> *A marked-up version of the ODP showing which provisions no longer apply would then be published online. It is inappropriate to include such details within the PDP itself*."

30. I fail to see how a proposed plan review can proceed without it being explicit what is actually proposed. Submitters and the Panel cannot reliably understand the effect of exempt provisions in the PDP without knowing which provisions in the ODP will remain.

31. By way of example, the PDP includes a chapter on Earthworks, which the ODP does not. If the exempt earthworks provisions in the PDP become operative, what happens to the earthworks rules in the ODP? If both sets of rules are operative, then there would be significant overlap and inconsistency, including different consenting triggers for the same activities. If the ODP rules fall away, then the permitted threshold would be significantly increased (from 100m2 over 5 years in Rule 4.3.1.14 of the ODP to 500m3 per year in Standard EW-S1 of the PDP) without the associated protective chapters and overlays from the notified version PDP. Important standards from the ODP (riparian setbacks, earthworks within significant indigenous vegetation, earthworks within Otago skink or Grand skink habitats) would be lost and would not be covered by the remaining matters of discretion.

32. Neither result would be appropriate, and if the ODP rules simply fall away then the resulting plan would have a high degree of conflict with higher order documents and the legislation.

33. Similar issues arise with the Energy and Infrastructure provisions at least.

Need for internal consistency

34. The impact of 'plan stop' on the proposed plan was raised at Hearing Stream 1 by the legal counsel for Forest and Bird. In its Minute 3 the Panel noted that it has some

sympathy for his view and sought drafting for proposed amendments to recognise that the Strategic Directions chapter is incomplete.

35. However, the same issue of incompleteness applies to the more detailed content of the plan, not just the Strategic Directions. If internal inconsistencies are to be avoided, I consider that further revisions to the remainder of the PDP will also be required to recognise and address that incompleteness.

Scope of submissions

36. The DG's submission generally sought the retention of provisions where specific changes were not sought, and also sought "further or alternative relief to like effect" if required.

37. In many cases, the DG's support for provisions in the chapters covered by this hearing stream was therefore based on the retention of provisions elsewhere in the notified plan (that is, the submission had to be read as a whole). I therefore consider that where the effect of a provision covered by the exemption is altered by the withdrawal of other provisions, the DG's submission would provide for "further or alternative relief" to the retained provisions as appropriate.

38. This is particularly relevant where notified provisions that have been retained were drafted to work in concert with provisions or overlays which have been withdrawn – for example provisions which relied on indigenous biodiversity or natural character being covered by overlays. As noted above, in many cases the retained provisions on their own would fail to give effect to higher order documents or the legislation. Where that applies, I generally consider that the scope provided in the DG's submission would allow that the retained provisions be redrafted so that, as much as possible, they can achieve the original intent and consistency with higher order documents and legislation in the absence of the withdrawn provisions.

Conclusions on effect of withdrawal

39. I consider that the effects of the withdrawal of large parts of the notified PDP have not been adequately dealt with in either the exemption process or the s42A reports. This means that it is currently impossible to understand how the overall plan would work once PDP provisions become operative and ODP provisions are "overtaken". It also means that many requirements of the legislation and higher order documents that were addressed by the withdrawn provisions are now either inadequately addressed or not addressed at all.

40. Given that the obligations of the legislation and higher order documents remain in place, I consider that a three-stage response is required:

    a) There needs to be an explicit assessment of which provisions in the ODP will be overtaken by which provisions in the PDP;

    b) The PDP provisions need to then be fully reviewed in light of the absence of the withdrawn provisions;

    c) Based on that assessment, the recommendations on the PDP will need to ensure that the requirements of the legislation and higher order documents are still met where there is scope to do so.

41. Preferably these responses would be included in the s42A reports (or s32AA process), but if not, then I consider that they would still be necessary to address in the Panel's recommendations.

42. I now turn to the specific provisions covered by this hearing, but note that the comments above remain relevant throughout that evidence.

Energy

Policies ENG-P4 and ENG-P5 -Small scale renewable electricity generation

43. The DG's submission sought that these policies be retained as notified. However, ENG-P5, which applies within overlays, was substantially reduced through the exemption process, reflecting the withdrawal of most overlays.

44. Given that, the s42A Report recommends that ENG-P4 be expanded to also cover overlays and ENG-P5 be deleted.

45. In principle I support this approach – with the withdrawal of most of the overlays, it is likely simpler and more effective to have a single policy for small scale renewable electricity generation (REG), provided that it adequately addresses the effects that were originally managed through the use of overlays.

46. However, I do not consider that the drafting proposed in the s42A Report achieves this. My reading of the final drafting proposed is as follows:

> *ENG-P4 Small scale renewable electricity generation activities*
>
> *Enable small scale renewable electricity generation activities where it is:*
>
> *1. of a form, location and scale that manages adverse effects on the environment; and*

2. consistent with the anticipated amenity values and character of the zone; and

3. in an Overlay, it is demonstrated that all adverse effects on the values and qualities of the overlay are avoided and where any residual adverse effects cannot be avoided, remedied or mitigated regard is had to offsetting measures or environmental compensation.

47. My concerns are that this drafting:

a) Does not adequately address effects on historical, cultural and natural environmental values, in the absence of the withdrawn overlays and provisions;

b) Limits recognition of overlays to apply only where the activity itself is located within the overlay, whereas the notified version of ENG-P4.3 recognised that adverse effects on overlays can occur from outside of the overlay;

c) Is internally inconsistent in clause 3, requiring that "all adverse effects on the values and qualities of the overlay are avoided" while also recognising offsetting and compensation for residual adverse effects. The notified version allowed for adverse effects on the overlay provided that residual effects were appropriately offset or compensated. The s42A version would not allow any adverse effects on the 'values and qualities' of the overlay, but would require regard be had to offsetting and compensation for effects unrelated to the overlay.

48. This approach is inconsistent with the National Policy Statement for Renewable Electricity Generation (NPS-REG). Policy F of the NPS-REG ('Enabling and managing the effects of REG assets and activities on the environment') requires that, where there are adverse effects on values and environments provided for in section 6 of the RMA, Policy F must be read alongside other relevant national direction, regional policy statements and regional and district plans. Policy F also requires that offsetting measures and environmental compensation for residual adverse effects be considered in all cases.

49. I therefore consider that the policy needs to be revised so that it is consistent with NPS-REG Policy F, and so that it adequately provides for s6 values which are now not able to be managed through overlays. I suggest alternative drafting along these lines:

ENG-P4 Small scale renewable electricity generation activities

Enable small scale renewable electricity generation activities ~~where it is~~ provided that:

1. the activities are of a form, location and scale that manages adverse effects on the environment; and

2. the activities are consistent with the anticipated amenity values and character of the zone; and

3. any adverse effects on values and environments provided for in section 6 of the RMA are managed in accordance with relevant national direction, regional policy statements and regional plans; and

4 ~~in an Overlay, it is demonstrated that all adverse effects on the values and qualities of the overlay are avoided and~~ where any residual adverse effects cannot be avoided, remedied or mitigated regard is had to offsetting measures or environmental compensation.

Policies ENG-P6 and ENG-P7 - Community scale renewable electricity generation

50. The DG's submission sought that policy ENG-P6 be retained as notified, and ENG-P7 be retained with one addition.

51. The s42A report recommends that these policies are also combined into one policy which applies both within and outside of overlays. As with ENG-P4 and ENG-P5, I support this approach but have concerns about the drafting.

52. In particular, the notified version of ENG-P7 was to "*Restrict locating large scale renewable electricity generation activities within: any zone, other than the General Rural Zone; and any overlay*."

53. While it is arguable whether the term "restrict" would be clear and effective, this policy did recognise the need for more precaution where REG activities could impact on values covered by overlays and other zones (such as natural environment values and residential land use). The combined policy fails to address natural environment values or other s6 matters, and instead relies on the non-existent overlays.

54. I therefore consider that an equivalent addition is required here as for ENG-P4:

"ENG-P6 Community-scale renewable electricity generation activities

Provide for community-scale renewable electricity generation activities where:

…

X. any adverse effects on values and environments provided for in section 6 of the RMA are managed in accordance with relevant national direction, regional policy statements and regional plans;…"

Energy Rules

55. Further to the discussion above about the effect of the partial withdrawal of the notified PDP, I consider that there are significant issues with the proposed rules – especially where they have been drafted in reliance on overlays which no longer apply.

56. Rules ENG-R3 and ENG-R4 address small-scale renewable electricity generation and investigation activities outside of overlays. However, the standards referred to only limit the size and scale of the activities, not their location or effects, so do not capture matters covered by the withdrawn chapters and overlays.

57. For activities which exceed the size and scale standards in ENG-R3 and ENG-R4, the resulting matters of discretion (standards ENG-S1 to ENG-S4) do not include matters that would have been covered by the overlays – indigenous biodiversity, natural character etc.

58. By way of example, there is currently significant interest in solar farm development in the Mackenzie Basin. Under the rules and definitions as per the s42A Report, a solar farm of tens or hundreds of hectares coverage on an extensive farming property would be within the 10% site area coverage in standard ENG-S2, and if it directly connected to a user (e.g. a data centre) would not trigger the definition for community scale renewable electricity generation. Such a farm could be located on land that had been assessed to meet criteria for an SNA or outstanding natural landscape (ONL), but is no longer identified as such in the exemption version of the PDP. I note that in those circumstances the solar farm would not trigger ODP provisions for indigenous vegetation, as vegetation would be removed over time by changes to shading and moisture rather than 'clearance'.

59. The only standard which could be triggered would be EW-S1, which sets an area limit for earthworks of 500m^2 in any 12 month period. This would give significant latitude for solar farms where the direct earthworks are limited to placement of poles to support the solar arrays, but even if that limit was exceeded, the matters of discretion are focussed on landscape and amenity effects and do not include indigenous biodiversity.

60. The rules would also permit wind turbines up to 20m high within areas that the notified PDP identified as ONLs, with no limits on the number of turbines other than the earthworks standard. Even if the earthworks area limit was exceeded, the resulting consent requirement would only apply to the effects of the earthworks, not the turbines themselves.

61. Similarly, a 90m high anemometer could be placed in an area previously identified as ONL for up to 5 years as a permitted activity.

62. I therefore consider that the rules and standards are not fit for purpose in the absence of the withdrawn chapters and overlays, and need a complete re-write, so that they are still appropriate within areas that have overlay values but are no longer identified in the plan.

63. This is an exercise beyond the scope of this evidence and may need further work by the s42A Report writer and/or expert caucusing. However, elements which I consider need to be addressed include:

    a) Consolidating Rules ENG-R3, ENG-R4 and ENG-R5 to create a set of 'overlay neutral' rules;

    b) Reviewing the size and scale limits in standards ENG-S1 to ENG-S4 – from the examples above, this would include removing the 10% site coverage option for solar panels, placing tighter limits on the size and number of freestanding wind turbines, and reducing the size or duration of anemometers;

    c) Adding matters of discretion to ensure that effects on indigenous biodiversity, natural character etc can be addressed when consents are triggered.

64. I note that a similar exercise will likely be required for other parts of the PDP, so it may be more efficient and effective to deal with these changes at a wider level rather than for individual chapters.

Infrastructure

Objective INF-O3 Providing for infrastructure

65. The DG's submission considered that this objective set an inconsistent and lower standard of protection for overlays than the notified PDP did for renewable electricity generation, and sought an additional objective along the lines: "*overlays are protected as far as practicable from the adverse effects of infrastructure activities".*

66. The S42A Report recommends simplifying the objective, including removing references to overlays and instead relying on a general requirement to "manage" adverse effects. It would simply state:

> *"INF-O3 Providing for infrastructure*
>
> *Infrastructure is established, operated, maintained and upgraded efficiently, securely and sustainably while the adverse effects of infrastructure are managed*".

67. I can see some advantages in this approach, as it would not rely on overlays which have been withdrawn, and would treat effects equally whether or not they are covered by an overlay.

68. However, it does lose a significant degree of specificity – in effect, it simply restates the most general requirements of the Act. It does not reflect the approach to effects management in the National Policy Statement for Infrastructure (NPS-I), particularly Policies 8 and 9, and it does not provide any local context.

69. I consider that the issue raised in the DG's submission of protection of overlay values remains relevant (albeit it now relates to the values themselves, given that the overlays have been withdrawn), and is unaddressed in the s42A proposed drafting.

70. However, it would be difficult now to add a direct reference to some specific values in this objective, given that it is otherwise at such a high level. Singling out values that were previously covered by overlays would raise a reasonable question of why other matters are not also addressed (such as natural hazard risk and zone character, which were included in the notified version of the objective). It would also introduce a degree of specificity in the objective which now probably sits best at a policy level.

71. I therefore consider that this point is best addressed via alternative relief, as an addition to policy INF-P4:

> "*INF-P4 Provision of infrastructure*
>
> *Enable new infrastructure and the operation, maintenance, upgrading and removal of existing infrastructure, and access to new infrastructure where:*
> *…*
> *8. any adverse effects on values and environments provided for in section 6 of the RMA are managed in accordance with relevant national direction, regional policy statements and regional plans."*

72. I note that this is equivalent drafting to what I have suggested above for ENG-P4 and ENG-P6. There are various submissions on both those policies, so I would also

suggest that if changes are made due to those submissions that all equivalent provisions be kept consistent where possible.

Policies INF-P7 and INF-P8

73. The DG's submission sought additions to these policies (and the now-withdrawn INF-P12), or a new policy, to ensure that offsetting and compensation are recognised, so that the policies are not limited to considering measures to 'avoid, remedy or mitigate' the effects of National Grid and other infrastructure activities. The s42A Report has rejected this, on the basis that ecological offsetting and compensation are more appropriately addressed in the topic-specific chapters.

74. As noted previously, there is now no topic-specific chapter addressing ecological offsetting and compensation, nor are there any chapters addressing other circumstances where offsetting and compensation could be used. This creates a gap at the policy level, given that various infrastructure rules include offsetting and compensation as matters of discretion (including INF-R5, INF-R6, INF-R20, INF-R21, INF-R22, INF-R23 and INF-R24).

75. I therefore consider it would still be useful to include specific recognition of offsetting and compensation at the policy level. Given the effect of the partial withdrawal, and the fact that the s42A Report recommends major changes to INF-P7 and INF-P8, I consider that this would sit best as a separate policy. I suggest that wording along similar lines to Energy policies ENG-P4 and ENG-P6 would be appropriate:

"*INF-PX Recognise offsetting and compensation measures*

Where any residual adverse effects of an infrastructure activity cannot be avoided, remedied or mitigated, regard is had to offsetting measures or environmental compensation."

76. I note that there are various submissions on policies ENG-P4 and ENG-P6, so I would also suggest that if changes are made due to those submissions that all equivalent provisions be kept consistent where possible.

Infrastructure Rules

77. Further to the discussions above about the effect of the partial withdrawal of the notified PDP and the Energy rules, I consider that there are also significant issues with the proposed Infrastructure rules – especially where they have been drafted in reliance on overlays which no longer apply.

78. Rules INF-R1 and INF-R2 provide permitted activities for maintenance, minor upgrading and removal of existing infrastructure, outside and within overlays respectively. However, following the plan exemption all of the overlays that relate to natural environment values have been withdrawn, and the only standards which apply are size limits for transmission lines and ground mounted poles, and earthworks limits. Where activities exceed the limits in the standards, the matters of discretion in standards INF-S3, EW-S5 and EW-S6 do not address natural environment values, as they were originally covered by overlays.

79. The effects of these permitted activities are potentially much wider than just earthworks – the definition of 'minor upgrading' taken from the NPS-I includes:

> *"…(b) replacement, or renewal of, existing infrastructure with the modern equivalent equipment or asset, which may not be 'like for like'; or*
>
> *(c) works necessary to continue to deliver the same or similar level of infrastructure services or to improve resilience;…".*

80. These activities have no limits on scale or effects, so could affect a wide range of natural environment values.

81. Similar concerns apply to Rule INF-R3, which provides for major upgrading of infrastructure outside of an overlay. However, in a potentially perverse outcome, it is now probably more restrictive than Rule INF-R1 for minor upgrading, as the NPS-I definition of minor upgrading is much less restrictive than Standard INF-S1 which applies to INF-R3 but not INF-R1.

82. In terms of new infrastructure, most proposals will be covered by Rule INF-R18. Size and scale limits are set in standards INF-S2 to INF-S11, EW-S5 and EW-S6. None of those standards restrict location or effects in terms of natural environment values, and where activities exceed the limits in the standards, the matters of discretion do not address natural environment values (other than natural character values in INF-S9 for infrastructure that crosses a river).

83. I consider that, as for Energy, these rules and standards are not fit for purpose in the absence of the withdrawn chapters and overlays, and also need a complete re-write so that they are still appropriate within areas that have overlay values but are no longer identified in the plan.

Earthworks

<u>Policy EW-P7 The effects of earthworks</u>

84. The DG's submission sought that "natural environment values" be added to this policy, to avoid there being a policy gap in managing effects on natural values, including biodiversity and ecological values, when particular values are found outside of overlays.

85. Subsequently, the only objectives and policies for earthworks which have been retained as exempt are EW-O3 (Protecting communities), EW-P6 (earthworks within the National Grid yard) and EW-P7 (The effects of earthworks). The notified provisions which recognised and protected natural values inside and outside of overlays have been withdrawn.

86. This means that EW-P7 is now the only district-wide policy for managing the effects of earthworks on natural environment values, and is operating in the absence of overlays or specific chapters to address those values. Given that, I consider that the plan would be unable to give effect to s6 of the RMA and the National Policy Statement for Indigenous Biodiversity (NPSIB) without the addition of natural environment values as sought in the DG's submission.

87. I therefore recommend an addition to EW-P7 as follows:

> *"EW-P7 The effects of earthworks*
>
> *Manage any earthworks to avoid, remedy or mitigate adverse effects on the following:*
>
> *…*
>
> *8. dust, lighting, odour, vibration, noise and traffic beyond the boundaries of the site; ~~and~~*
>
> *9. soil quality <u>and</u>*
>
> *<u>10. Natural environment values.</u>"*

<u>Consequential changes</u>

88. In the notified version of the plan, the rules that followed from the Earthworks policies did not address natural environment values, as they were covered by overlays. With the withdrawal of those overlays, that approach would fail to give effect to s6 of the RMA and the NPSIB. I therefore consider that a consequential change to the matters of discretion in Standard EW-S1 is required, to ensure that the additional clause in EW-P7can be effective:

> *"Matters of discretion are restricted to:…*
>
> *…<u>9. Impacts on natural environment values</u>."*

89. There is also a further consequential change required to the definitions. Following the withdrawal process, the proposed plan now has no chapters under Natural Environment Values, despite this being a mandatory direction of the National Planning Standards 2019. This means that reference to 'natural environment values' would have no meaning within the plan. I therefore consider that an additional definition is required, to reflect the components that sit under Natural Environment Values in the National Planning Standards:

> *"Natural environment values means Ecosystems and Indigenous Biodiversity, Natural Character, Natural features and landscapes, and Public access."*

90. I note that there may be other ways to achieve the same result, such as explicitly adding "ecosystems and indigenous biodiversity, natural character, natural features and landscapes, and public access" in full to each applicable provision. I am neutral on the specific drafting provided that it is clear that these values are addressed.

Conclusions

91. I have significant concerns about the current approach to the exempt provisions of the PDP, which I consider provides no certainty for submitters or the Panel on how the final version of the PDP will operate, or if it will comply with the legislation and give effect to higher order documents.

92. Although only some parts of the notified PDP have been provided an exemption, the full purpose and principles of the Act, council functions under s30, and relevant national direction still apply to decisions on those provisions.

93. While I have provided drafting suggestions for specific provisions where I can, I consider that a wider review is required across the PDP (including consideration of which provisions of the ODP will remain). My preference would be for this to be undertaken as part of the s42A and s32AA process, so that all parties are able to understand and address the full effect of the proposed changes.

94. If this is not addressed through the s42A and s32AA process, then I consider that it will need to be addressed in the Panel's recommendations.



Murray Brass

DATED this 14th day of September 2026.

Appendix 1 – Summary of changes recommended based on the above evidence

This appendix summarises matters where I recommend changes to the wording of provisions where my opinion differs from what is proposed in the Section 42A Reports. The table outlines the DG's submission points and officer's recommendations, and includes the text of my suggested changes. The table also provides references for the paragraphs of my evidence which address each point or recommendation.

Note: Where submission points from the DG's submission are recommended for acceptance in the s 42A Report, and I concur with that recommendation, those submission points have not been included in this table.

Key to proposed changes to provisions

Text	**Tracked Changes**
Text from S42A Report Appendix 1	Normal text
Amendments proposed in my evidence	~~Strikethrough~~ for deletions and <u>underline</u> for insertions

Sub Ref	**D-G Submission**	**Recommendation in s42A Report**	**Provision wording as recommended by M Brass**	**Evidence para ref**
EW-P7 (194.114)	Retain EW-P7 as notified with the addition of a new clause "10 Natural environment values"	N/A	**Consequential change, insert a new definition as follows:** *<u>"Natural environment values</u>* *<u>means Ecosystems and Indigenous Biodiversity, Natural Character, Natural features and landscapes, and Public access."</u>*	88-90
ENG-P4 (194.23-24)	Retain ENG-P4 and ENG-P5 as notified	Amend ENG-P4 and delete ENG-P5	**Amend Policy ENG-P4 as follows:** *ENG-P4 Small scale renewable electricity generation activities*	43-49

Sub Ref	D-G Submission	Recommendation in s42A Report	Provision wording as recommended by M Brass	Evidence para ref
			Enable small scale renewable electricity generation activities ~~where it is~~ <u>provided that</u>: *1. <u>the activities are</u> of a form, location and scale that manages adverse effects on the environment; and* *2. <u>the activities are</u> consistent with the anticipated amenity values and character of the zone; and* *3. <u>any adverse effects on values and environments provided for in section 6 of the RMA are managed in accordance with relevant national direction, regional policy statements and regional plans; and</u>* *<u>4 in an Overlay, it is demonstrated that all adverse effects on the values and ~~qualities of the overlay are avoided and~~</u> where any residual adverse effects cannot be avoided, remedied or mitigated regard is had to offsetting measures or environmental compensation.*	
ENG-P6 (194.25-26)	Retain ENG-P6 and ENG-P7 as notified with additional wording in ENG-P7.2 to focus protection on the identified values of overlays.	Amend ENG-P6 and delete ENG-P7	**Amend Policy ENG-P6 as follows:** *"ENG-P6 Community-scale renewable electricity generation activities* *Provide for community-scale renewable electricity generation activities where:* *…* *<u>X. any adverse effects on values and environments provided for in section 6 of the RMA are managed in accordance with relevant national direction, regional policy statements and regional plans;…"</u>*	50-54

Sub Ref	D-G Submission	Recommendation in s42A Report	Provision wording as recommended by M Brass	Evidence para ref
INF-O3 (194.30)	Insert new objective to require protection of overlays	No change	**Alternative relief, insert an additional clause in INF-P4 as follows:** "*INF-P4 Provision of infrastructure* *Enable new infrastructure and the operation, maintenance, upgrading and removal of existing infrastructure, and access to new infrastructure where:* *…* *8. any adverse effects on values and environments provided for in section 6 of the RMA are managed in accordance with relevant national direction, regional policy statements and regional plans."*	65-72
INF-P7 and INF-P8 (194.32, 194.33)	Add new provisions, or a new policy, to recognise offsetting and compensation.	No change	**Alternative relief, insert new policy as follows:** *"INF-PX Recognise offsetting and compensation measures* *Where any residual adverse effects of an infrastructure activity cannot be avoided, remedied or mitigated, regard is had to offsetting measures or environmental compensation."*	73-76
EW-P7 (194.114)	Retain EW-P7 as notified with the addition of a new clause "10 Natural environment values"	No change	**Insert an additional clause as follows:** *"Manage any earthworks to avoid, remedy or mitigate adverse effects on the following: …* *… 10. Natural environment values"*	84-87
EW-P7 (194.114)	Retain EW-P7 as notified with the addition of a new clause "10 Natural environment values"	N/A	**Consequential change to EW-S1, insert an additional clause as follows:** *Matters of discretion are restricted to: …* *…9. Impacts on natural environment values*	88-90