

Submission from Straterra To Otago Regional Council Proposed Otago Regional Policy Statement September 2021

Introduction

1. Straterra is the industry association representing the New Zealand minerals and mining sector. Our membership is comprised of mining companies, explorers, researchers, service providers, and support companies.
2. We welcome the opportunity to comment on the [Proposed Otago Regional Policy Statement](#). (pORPS).
3. The pORPS places a lot of importance on protecting Otago's natural resource, as reflected in the mihi and long-term vision on page 2, for example. It overlooks the fact that mineral and aggregate resources are a valuable natural resource that are essential to society.

General comment – What is wrong with the Proposed Otago Regional Policy Statement

4. The pORPS, as it currently stands would result in the closure of many mines and quarries as well as prevent the development of new ones. Other land-using industries will be similarly affected.
5. Essentially the pORPS too readily enables the creation of Significant Natural Areas (SNAs) across the region. Only economic activity that leaves these areas untouched would be allowed to occur, which would rule out almost all land uses in the region.
6. Sectors like extractives that are constrained in where they can operate (minerals can only be found and mined where they are located) need to be able to access the Effects Management Hierarchy and offer biodiversity offsetting and compensation as a consenting pathway for development to occur. This course of action is not open to them under the pORPS.
7. Mine and quarry extensions are consented over time as new or additional resources are identified. But under the pORPS, these consents would unlikely be granted, meaning many mines would have to close.
8. The pORPS prioritises preservation when the goal must be responsible development that generates jobs, and generates the wealth and activities required for a net positive contribution to the environment. For the Council to aim for less than that is short sighted and irresponsible.

9. More details are provided later in the submission but first it is worth pointing out why the extractives sector is important and why flexibility is necessary for responsible development of our mineral resources.

Importance of extractives to Otago

10. The extractive sector makes an important economic contribution to the Otago Region - from the thousands of people employed to the rates paid and the economic activity generated. The minerals and aggregates produced are also vital for the region and the country. Demand for aggregate in Otago for infrastructure and housing is currently very strong and Otago gold ranks amongst New Zealand's highest export earners to Australia.
11. In Waitaki District alone which is where OceanaGold's Macraes gold mine is partially located, Infometrics figures show that mining directly contributes 32.5% of the district's GDP and 5.3% of total jobs. The indirect benefits from these numbers, once downstream multipliers are applied, are even greater.
12. In addition to this, there is significant mining and extractive activity across the region in a number of commodities and locations. Employment in corporate offices based in Dunedin and across the region also make a contribution.
13. The contribution goes beyond the region. The Otago minerals sector is important on a national scale. Otago is the second ranked region in the country in terms of numbers of jobs employed in the mining and exploration sector. Many more jobs in the region are created indirectly.
14. Much of this contribution would be at risk if the pORPS is introduced. A number of mines and quarries would be threatened by closure. For example, we understand that Macraes Mine would not be able to renew its resource consent in 2026 and would therefore face closure if the pORPS is introduced. That outcome would be a major loss to the community and the local economy and would, we would argue, lead to a net loss in environmental values.
15. It would be irresponsible for the council to cause the contraction of the extractives sector in Otago through the RPS with all the corresponding job losses and economic disruption that would occur as a result. Councils have a role to promote and enable regional economic development as much as environmental protection.

High-tech minerals

16. The government's resource strategy (Minerals and Petroleum Strategy for Aotearoa New Zealand 2019-2029) recognises the importance of minerals in New Zealand. In particular, it places a great deal of importance on high-tech minerals given the contribution they will make in the transition to a low carbon economy.
17. There is significant potential for high-tech minerals in the Otago Region, including rare earth elements, and nickel-cobalt, for which there is prospectivity in Otago. Tungsten, which is a byproduct of gold mining currently mined in Otago, is another example. The pORPS would prevent the country accessing these minerals now and in the future. The outcome of this approach is to simply export the 'problem' to another jurisdiction.

Out of step with central government

18. The provisions of the pORPS are inconsistent with the direction being set by central government as evidenced by upcoming changes to regulation governing natural wetlands, and, separately, indigenous biodiversity, particularly in broadening the scope for and enabling the application of the effects management hierarchy.
19. With regard to natural wetlands, the Minister for the Environment (and indeed Cabinet) has accepted there is a clear case for providing a consenting pathway for locationally constrained activities, including mining and quarrying – responsible development requires these sectors to have access to the ability to offset and/or compensate for effects on natural wetlands. This currently applies to specified infrastructure in the wetland regulation through a ‘carve out’, just as specified infrastructure is allowed for in the pORPS, but the pORPS does not allow access to the same provisions for the extractive sector.
20. The NPS for Indigenous Biodiversity, when it is released later this year, is expected to make similar allowances and acknowledgements, ie a recognition that locationally constrained industries should be able to access the effects management hierarchy. The draft NPSIB, consulted on in late 2019 and early 2020, contained well-conceived principles for determining the use of biodiversity offsetting and compensation (appendices 3 and 4) which could be applied to the pORPS, subject to a review for workability.
21. This approach is also consistent with the recent Environment Court decision in Brookby Quarries Limited v Auckland Council [2021] NZEnvC 120. This case addressed the issue of the conflict between maintaining and protecting indigenous biodiversity and the locational needs of the extractives sector. The Court acknowledged that where Significant Ecological Areas are present in a Quarry Zone, an applicant for resource consent does not need to first avoid adverse effects, but can apply for resource consent based on access to mitigation, offsetting and/or compensation.
22. We argue that in addition to the economic and environmental loss the pORPS would create, it would be inappropriate for ORC to go against the ‘thrust’ of this national direction.

Superseded by new legislation

23. The RPS and other RMA planning instruments will soon be superseded by the Natural and Built Environments Act and the other legislation destined to replace the RMA. A new National Planning Framework and regional spatial strategies etc will be introduced.
24. We are opposed to the pORPS and, in addition, the council shouldn’t be implementing it at this time given the significance of these pending legislative changes. At the very least it should be put on hold, given the time and cost of the process and the fact that it will be short lived.

Existing Otago Regional Policy Statement

25. As well as departing from central government thinking and direction, the pORPS represents a significant step back from the existing, and partly operative 2019 Otago Regional Policy Statement (ORPS). This document recognises explicitly that the mining and extraction sector is locationally constrained and it permits the sector’s proposals to be able to access the full suite of environmental effects management tools.

26. Note Policy 5.3.4 of the existing statement: Mineral and petroleum exploration, extraction and processing – recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.

SNAs

27. We accept that identifying and protecting significant natural biodiversity on private and public land is important. The problem the pORPS creates is the low hurdle for the creation of Significant Natural Areas (SNAs) and the status of land declared an SNA. In particular, an SNA would not have to be mapped in advance of an activity applying for resource consent. Instead, a consenting process would trigger how “significance” is to be identified at a site and then considered in the context of a resource consent application. That is not a regime designed to enable responsible development.
28. Appendix 2 sets out the criteria for determining whether an area is to be classified as an SNA. Using the criteria, under “Rarity”, if a threatened indigenous species that is “at risk” or “uncommon” an SNA is created. This is a particularly low threshold for a total ban on any land use or economic development that has more than zero environmental effects.
29. The threshold must be raised. One partial solution would be to restrict ecological significance to important populations of such species and require a higher threshold for the capture of “at risk” and “uncommon” species although these would be difficult to define. Alternatively, the effects management hierarchy should apply in every situation.
30. There does not seem to be any analysis by the council as to how much land would be classified as Significant Natural Area under the pORPS, but by any assessment it would be very large. It has been estimated that 50% of Otago by area would be categorised as an SNA affected.

Impact avoidance

31. Once SNAs are created, land users would be required to completely avoid impacting them, under the pORPS. This would remove a consenting pathway to disturb SNAs. Even where the impacts of any activity can be mitigated to the standard of no net loss, the activity would be prohibited. This construct ignores the reality that activities can, and do, operate while preserving and often enhancing indigenous biodiversity. The creation of artificial wetlands to manage water run-off and biodiversity offsetting and compensation, for example, are common requirements for modern mining.
32. As stated above, our position is that industries that are locationally constrained and do not have the option to relocate should have the ability to offset or compensate for any loss that occurs. This would be similar to the pORPS’s treatment of specified infrastructure which is similarly locationally constrained.

Cost benefit analysis

33. We are not aware of any analysis by the council of the economic activity that would be foregone as a result of changes. Certainly, the s32 report does not provide any cost benefit analysis, as is often the case for s32 reports, despite this being arguably the purpose of these reports.

34. It is extraordinary that the benefits of mining and quarrying, not to mention other land uses, are not taken account of. The economic contribution of the sector is significant, as outlined in section paragraphs 7-12 above, and conversely the loss to the region if this activity, or only some of it, is ceased needs to be acknowledged against the gains to biodiversity that might arise from the RPS.
35. The fact that the aggregate needed for the region's infrastructure requirements, including renewable electricity generation and housing growth, would not be locally available if quarrying was to be avoided should also be incorporated into a cost benefit analysis.

Solutions

36. The Otago pORPS should be made consistent with the direction set by central government in regard to biodiversity and wetlands, by:
 - i. Recognising that mineral extraction, like infrastructure, is locally constrained.
 - ii. Allowing mineral extraction, as a functionally constrained industry, to access the effects management hierarchy – whether in an SNA or not.
 - iii. Raising the threshold for classifying SNAs. See ii above.