

1 INTRODUCTION

1.1 PURPOSE OF THE DISTRICT PLAN

This is the first District Plan for the Waitaki District, prepared under the Resource Management Act 1991. The purpose of the District Plan is to assist the Council to carry out its functions in order to achieve the purpose of the Resource Management Act.

The sustainable management of natural and physical resources is the purpose of the Resource Management Act. Further explanation of the meaning of "sustainable management", and the principles for achieving it, is discussed in Part II of the Plan. In general terms the District Plan is the means by which the use, development and protection of the District's natural and physical resources will be managed into the future.

1.2 LIFE OF THE DISTRICT PLAN

Section 73 of the Resource Management Act 1991 requires the Waitaki District Council to have at all times a District Plan for its District. The Council is obliged to commence a full review of its District Plan not later than 10 years after the Plan becomes operative. It is, therefore, envisaged that this document will be in force for at least the next decade.

In view of possible resource management issue or policy changes in the District over the next 10 years, provision is made under the Act for Changes to the District Plan. These may be initiated either by the Council or by private request.

1.3 HISTORY OF THE DISTRICT PLAN

This Plan reviews and replaces the following District Schemes prepared under the Town and Country Planning Act 1977:

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| - Waitaki County Scheme: | Operative 1 May 1988 |
| - Waihemo County Scheme: | Operative 1 July 1984 |
| - Silverpeaks County Scheme: | Operative 8 December 1986 |
| - Oamaru Borough Scheme: | Operative 3 February 1986 |

Under the local government restructuring of October 1989, the former Borough and Counties were amalgamated to form the Waitaki District. The District Schemes relevant to the previous local authorities remained in force through the amalgamation and were deemed to be the Waitaki Transitional District Plan with the introduction of the Resource Management Act on 1 October 1991.

1.4 HOW THE DISTRICT PLAN WORKS

The District Plan sets out in a systematic way the manner in which the Council intends to deal with its functions under the Act. In doing this, the District Plan specifies objectives, policies and methods, in relation to resource management issues in the District, to achieve the integrated and sustainable management of the District's resources.

The District Plan comprises five parts, covering the whole District:

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| - Part I: | Introduction to the District Plan |
| - Part II: | Issues, Objectives and Policies |
| - Part III: | Rules |

- Part IV: Appendices
- Part V: Maps

In managing the use, development and protection of the District's natural and physical resources over the next ten years, the District Plan must reflect and provide for the principle resource management issues pertaining to the District. The District Plan identifies and discusses the issues that have been identified by the Council and sets out the objectives and policies of the District Plan in regard to those issues. The objectives are framed as the end state or situation that the District Plan aims to achieve. The policies are the course of action being followed through the District Plan to achieve the objective. The District Plan also specifies the environmental results anticipated to be achieved by the implementation of the objectives and policies.

To achieve the objectives and policies of the Plan, rules are included which prohibit, regulate or allow activities. The Council has adopted the principle of zoning. This technique recognises that different areas of the District will have different resources, character and levels of amenity and that the community will seek different environmental results for these areas. The zones provide opportunities for future development in keeping with the character and amenity sought for these different areas. Any particular activity must comply with the rules applicable to the zone in which it is situated, as well as general district rules covering a range of matters such as subdivision, heritage values and transportation.

1.5 RELATIONSHIP WITH TAKATA WHENUA

The Resource Management Act contains specific obligations in relation to the Treaty of Waitangi and Maori interests. The Act identifies, as a matter of national importance, the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga. The Act also states that the principles of the Treaty of Waitangi must be taken into account when managing the use, development and protection of natural and physical resources. Consultation by the Council with takata whenua in the preparation of the District Plan is also required by the Act.

In relation to the District Plan, the most significant principle of the Treaty of Waitangi is that of partnership. An integral aspect of this is the Council's obligation to consult with local Maori to achieve an on-going working relationship between local government and the takata whenua with particular reference to section 7(a) of the Resource Management Act. The Council must also have regard to the Treaty principle of active protection of Maori people in the use of their traditional resources. This will be reflected by takata whenua involvement in decision-making, regarding those natural resources important to them.

Ongoing information sharing between the takata whenua and Council representatives will ensure the principles of the Treaty of Waitangi are clarified and given the recognition they require under the Resource Management Act. To this end the Council continues to undertake consultation with takata whenua who have a traditional interest in Waitaki District. The Council has liaised and consulted with Te Runanga o Moeraki who have been vested with the management concerns of Kai Tahu over this area.

1.6 RELATIONSHIP WITH OTHER PLANS AND POLICY DOCUMENTS

In preparing and reviewing the District Plan, the Council is required to consider a range of other plans and policy documents of relevance to the District. The Council is required under Section 55 of the Act, to implement any national policy statement. The District Plan must not be inconsistent with:

- any national policy statement (Ss 55 and 75(2));
- the New Zealand Coastal Policy Statement;
- any water conservation order;
- the Regional Policy Statement or any regional plan covering its District (S 75(2)).

The Council will undertake Plan Changes, if necessary, where these plans or policy documents are prepared subsequent to this District Plan.

The Council has also paid regard to the following documents:

- the Otago and Canterbury Regional Councils' Proposed Regional Policy Statement and proposed regional plans;
- District Plans of adjacent local authorities (S 74(2));
- the conservation management strategies for Otago and Canterbury;
- Kai Tahu ki Otago Natural Resources Management Plan

Section 93 of the Local Government Act 1974 allows the Council to set out its broad policies and objectives through a Long Term Council Community Plan (LTCCP), providing a clear statement of the goods and services produced by the Council. The District Plan through, its rules, is principally a regulatory method of achieving the sustainable management of the natural and physical resources of the District. Service delivery and regulation are however complementary procedures, and the delivery of goods and services by the Council can also be used to achieve sustainable resource management. To this extent the Council's District and Long Term Council Community Plans ought to be consistent with each another, in order to work together to achieve the purposes of the Act.

1.6.1 Cross Boundary Issues

The Act requires the Plan state the processes to be used to deal with issues which cross territorial boundaries (Section 75 (1)(h)).

Territorial authorities that adjoin the Waitaki District are as follows:

- Central Otago District Council
- Dunedin City Council
- Queenstown Lakes District Council
- Mackenzie District Council
- Westland District Council
- Waimate District Council

Cross-boundary issues that may arise in respect of adjoining territorial authorities include the following:

Land use activities (including uses on the surface of rivers and lakes) and development strategies which may give rise to adverse environmental effects in another district.

Roading and transportation matters, drainage systems, water catchments and supply schemes, and other utility services which start in one district and cross over into another district.

Resource consent matters which may impinge on two or more territorial authority districts.

A cross boundary issue unique to Waitaki, Waimate and Mackenzie Districts is the management of the Waitaki hydro-lakes and their margins.

In dealing with these issues, Council will utilise the following processes:

- notification of adjoining territorial authorities that may be affected.
- protocols with respect to joint processing of resource consent applications.
- pre-hearing meetings pursuant to section 99 of the Act between applicants/developers, submitters, and relevant territorial authorities.
- promote and participate in joint hearings pursuant to section 102 of the Act.
- undertake regular consultation with all agencies having responsibility for the sustainable management of the District's environment and to promote and encourage protocols and mechanisms to address and resolve cross boundary issues where they arise.
- To support the continuation of a Waitaki Lakes Committee or equivalent to promote the integrated management of this area.

Council will also consider significant resource management issues arising in the district of an adjacent local authority which may have implications for the Waitaki District. In appropriate cases, submissions will be prepared and lodged with that local authority in relation to plans, plan changes, resource consents or requirements.

Cross boundary issues may also arise with regional councils. In the context of the Waitaki District, the Otago Regional Council and the Canterbury Regional Council are the relevant regional councils.

Such issues could include the following:

- Land use activities that have implications for both the district and regional councils' functions in respect of soil, water, coast, natural hazards, and hazardous substances.
- Resource consent matters that involve both the district and regional councils. Activities that may be permitted by the District Plan but may require consent from the Regional Council.

The same processes used to deal with cross boundary issues with adjoining territorial authorities will also be used in dealing with cross boundary issues between Council and the two relevant regional councils.

1.7 PUBLIC PARTICIPATION IN THE PROCESS

The Act clearly requires consultation to be undertaken by Councils exercising responsibilities under the Act. The Council is concerned to ensure that the Plan fully reflects the concerns and aspirations of the District's community.

Extensive consultation was undertaken prior to the preparation of the District Plan. The Council's initial mechanism for consultation was the Resource Management Issues and Options Report to which submissions were received. In addition, the Council has consulted with government and other statutory agencies, special interest groups and the takata whenua for the District. The Plan has been through the process of public notification, submissions and appeals to the Planning Tribunal consistent with a public right to participation in the preparation of the Plan.

The Act also provides opportunity for public participation or input into Changes to the District Plan and resource consent applications of potential adverse effect beyond the boundary of the property to which they relate.

1.8 LEGAL FRAMEWORK

1.8.1 Obligation to Comply:

No person may use land in a manner that contravenes a rule in the District Plan, unless they have existing use rights or a resource consent granted by the Council (Ss 9 and 10). In the context of the Resource Management Act such use includes the use of the surface of lakes and rivers (S 10A). No person may subdivide land in the District unless expressly allowed by a rule in the District Plan or a resource consent (S 11).

1.8.2 Existing Use Rights:

Sections 10 and 10A of the Act provide for the existing and continued use of land and the surface of water in a manner which contravenes a rule in the District Plan, subject to the following:

- the use was lawfully established (including by designation) before the rule became operative or the proposed Plan was notified; and
- the effects of the use are the same or similar in character, intensity and scale to those which existed before the Plan became operative or the proposed Plan was notified or the designation was removed; and
- if the activity involves the use of the surface of water in lakes and rivers, the person carrying out the activity applies for a resource consent within 6 months of the rule in the Plan becoming operative.

Existing use rights do not apply if:

- the use of land has been discontinued for a continuous period of more than 12 months, unless the Council has granted an extension by way of application; or
- reconstruction, alteration or extension of any building that contravenes a rule in the District Plan increases its degree of non-compliance.

1.8.3 Status of Activities:

Within the context of this District Plan, "activity" includes the use and subdivision of land (and the surface of water), and/or the erection and/or use of buildings or structures thereon.

Activities have been grouped according to their common characteristics, based on the premise that there is no need to distinguish between activities of similar environmental effects. For example, "residential activity" includes a range of uses from detached dwellings to apartments.

Within each zone, these activities are further classified according to their status under the Act, being either: permitted; controlled; restricted discretionary; discretionary; non-complying; or prohibited. The following is not intended as a complete explanation of these activities, which can only be found in the Act.

Permitted activities are allowed by the Plan without a resource consent, providing they comply in all respects with the conditions specified in the Plan. In respect of any particular zone, these conditions include both the relevant site and zone standards.

Controlled activities require a resource consent. They shall comply with any standards and terms specified in the Plan and will be assessed according to those matters in the District Plan over which the Council has reserved control. The Council must grant its consent to a controlled activity, but in granting its consent the Council may impose conditions relating to those matters specified.

Restricted discretionary activities require a resource consent. They shall comply with any standards and terms specified in the Plan and can only be assessed against those matters specified in the plan to which Council has restricted the exercise of its discretion. The Council may grant or refuse consent. If consent is granted, conditions may be imposed only for those matters specified in the plan over which it has restricted its discretion.

Discretionary activities require a resource consent, and may be subject to standards and terms specified in the Plan. Activities have been afforded such status where there is potential they may not be suitable in all locations in a zone; or where the effects of the activity on its environment are so variable that it is not possible to prescribe appropriate standards and terms to cover all circumstances in advance of an application. Alternatively, activities may be listed as permitted activities but cannot meet all the site standards for that zone, in which case they shall be discretionary activities only in respect of those matters of non-compliance. The Council may grant or refuse consent to a discretionary activity and, if granting consent, may impose conditions.

Non-complying activities are those which contravene a rule in the District Plan. A resource consent is required for a non-complying activity. The Council may grant or refuse consent to a non-complying activity and, if granting consent, may impose conditions.

Prohibited activities are those which a rule in the Plan expressly prohibits in the District or a particular zone. No application may be made for such activities and no resource consent will be granted.

1.8.4 Site Development and Critical Zone Standards:

This District Plan adopts a two-tier system of standards in most of the zones - that is Site Development Standards and Critical Zone Standards. All zone rules within the District contain Site Development Standards and Critical Zone Standards.

Site Development Standards are specified in relation to matters which tend to impact on the use of the particular site and adjacent areas. These Site Development Standards have been derived after full consideration of their costs and benefits and in relation to the effects of activities on the surrounding environment. They are considered important in achieving a satisfactory environmental standard in the immediate vicinity of an activity. While these standards are important, they are not considered fundamental to the integrity of an area and so are set in a way that if development does not comply with these standards the Council will consider the matter of non-compliance by way of a resource consent for a discretionary activity. This enables the Council to consider the implications of non-compliance on the use and enjoyment of the site being developed and on the surrounding environment.

Critical Zone Standards are standards which are fundamental to the environmental standard or character which is sought to be attained for a zone or area. These standards often relate to matters which can have widespread or cumulative effects on the wider zone or area, such as noise and traffic generation. Because of their importance, all activities which fail to meet these standards are non-complying activities which face a rigorous test if they are to obtain resource consent.

1.8.5 Resource Consents:

Under the Act, the Waitaki District Council can consider resource consents for land use and subdivision. The Otago and Canterbury Regional Councils can consider land use consents, discharge permits, water permits and coastal permits.

A resource consent from the Waitaki District Council is required by any person proposing to undertake an activity classified in the District Plan as:

- a controlled activity;
- a restricted discretionary activity;
- a discretionary activity; or
- a non-complying activity.

An application for resource consent must be made in accordance with Section 88 of the Resource Management Act. Forms for land use and subdivision consent applications are available from the Waitaki Council office, accompanied by an explanation of the information to be submitted with the application. This includes an Assessment of Effects on the Environment prepared in accordance with the 4th Schedule of the Act.

Section 94 of the Resource Management Act prescribes when applications need not be publicly notified. In many situations this requires the written approval of affected persons. The District Plan in the Rules Sections specifies those resource consents which shall be non-notified, without the written approval being required of persons affected by the proposal.

Section 104 sets out those matters to which the Council must have regard, in considering a resource consent application:

“(1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to -

- (a) any actual and potential effects on the environment of allowing the activity; and*
- (b) any relevant provisions of -
 - (i) a national policy statement;*
 - (ii) a New Zealand coastal policy statement;*
 - (iii) a regional policy statement or proposed regional policy statement;*
 - (iv) a plan or proposed plan; and**
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.”*

The Council will reach a decision on the application in accordance with Section 104 (A, B, C or D) of the Act. The District Plan includes assessment matters which the Council will have regard to when considering resource consents. Section 106 specifies circumstances whereby the Council shall not grant subdivision consent, this being for any land, structure on that land or subsequent use of the land subject to or likely to cause or accentuate material damage by erosion, falling debris, subsidence, slippage or inundation from any source.

The Council may impose conditions on consent in accordance with Sections 108 and 220 of the Act, in restricting or prohibiting certain aspects of the proposal to ensure it complies with the Resource Management Act and the District Plan.

1.8.6 Designations:

A designation is a provision made in the District Plan to give effect to a requirement made by a requiring authority. These requirements apply to a public work or a particular project or utility operation.

Any Minister of the Crown or local authority is automatically a requiring authority. Other network utility operators (as defined in Section 166 of the Resource Management Act) may apply to the Minister for the Environment for approval as a requiring authority. A requiring authority may give notice to the Council in respect of a requirement. Although the Council has called for such notices in preparing the District Plan, the Act makes provision for similar procedures throughout the life of the operative District Plan.

Designations are shown on the Planning Maps, with an indication of the requiring authority which has the benefit of the designation. These designations limit the use of the land, overriding the provisions of the Plan and any resource consent, in favour of the designated purpose. The underlying zone indicates the purposes for which the land may be used for, other than the designated work.

Designations are not the only means of providing for public works or utility operations. The District Plan contains general rules for utilities in a manner similar to other general activities.

1.8.7 Heritage Protection Orders:

A heritage order is a provision in the District Plan to give effect to a requirement made by a heritage protection authority (Section 187). Similar provisions apply for the granting of status as requiring authorities, except that this authority extends to the New Zealand Historic Places Trust.

A heritage order is issued to protect features or places of special interest, character, intrinsic or amenity value or visual appeal, or of special significance to the takata whenua, and such area of land surrounding these places as is necessary to protect and afford reasonable enjoyment of them. No person may undertake work in a manner contrary to the heritage order.

Heritage orders are identified on the Planning Maps, with accompanying description.

1.8.8 Section 32 Assessment:

Section 32 of the Resource Management Act requires that certain duties be performed in the preparation of any objective, policy, rule or other method in the District Plan. There are three main components to Section 32:

- to address the extent to which the provision is needed at all, to explore other possible means, and to provide reasons for and against the proposed and principal alternative means;
- to evaluate the benefits and costs of the proposed option and the principal alternative means; and
- to decide whether the proposed means is needed to achieve the purpose of the Act and is the most appropriate in terms of efficiency and effectiveness.

The Council is satisfied in respect of these matters in the preparation of this Plan.

1.8.9 Enforcement:

Enforcement powers under Part 12 of the Resource Management Act are available to be used by the Council to require persons to cease or not commence activity which is or is likely to:

- contravene the Act, any regulations, a rule in the District Plan, or any resource consent; or
- be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment.

1.8.10 Monitoring:

The Council has increased responsibilities for gathering information, monitoring and maintaining records on resource management matters. These responsibilities will allow the Council to consider refinements of the content of the Plan as well as enabling the community to be informed about how the Plan's provisions are performing.

The monitoring process of the Council has three components:

- compliance with the provisions of the Plan and compliance with conditions of consents. In particular, the Council will monitor compliance with approved resource consents. Where appropriate, the consent conditions will be reviewed as provided for in Section 128 of the Act;
- the state of the environment;
- the suitability and effectiveness of the provisions of the Plan. If necessary the provisions of the Plan will be updated or improved by way of Plan Change procedures.

The procedures for monitoring the effectiveness of the District Plan are set out in Part II Section 18.

1.9 CHANGES TO THE PLAN

The Council is committed to a Plan that is current and relevant and which addresses issues and concerns as they arise. Therefore, the provisions of the Plan may be varied as necessary. Such changes may be in response to revised or up-dated National or Regional Policy Statements or Regional Plans. Further, as the development of the District takes place, the Plan will be subject to continuous review by the Council, so that on-going and evolving resource management requirements of the community may be acknowledged and provided for.

Any person may formally request the Council to change the Plan. The procedure is set out in the First Schedule to the Act. Applications must clearly define the proposed change, so that it can be readily understood, and describe the environmental results anticipated from the implementation of the change.

Applicants must also provide the following information in support of their Plan Change, to the satisfaction of the Council:

- The extent to which the change is necessary in achieving the purposes of the Act and any relevant objective or policy in this Plan;
- Alternative means of achieving the purpose of the Act or any objective or policy in this Plan;

- Reasons for and against the adoption of the Plan Change and the outcome of taking no action;
- An evaluation of the likely benefits and costs of the principle alternative means and the likely implementation and compliance costs if the Plan Change is adopted.