

ATTACHMENT 1: RELEVANT PROVISIONS OF STATUTORY DOCUMENTS

1. RELEVANT PROVISIONS OF THE RESOURCE MANAGEMENT ACT

SECTION 5:

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, **sustainable management** means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while –*
 - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
 - (c) *Avoiding, remedying or mitigating any adverse effects of activities on the environment.*

SECTION 6:

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 recognise and provide for the following matters of national importance:

- (a) *The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) *The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*
- (f) *The protection of historic heritage from inappropriate subdivision, use, and development.*
- (g) *The protection of recognised customary activities.*

SECTION 7:

- (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- (e) *[Repealed]*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*

SECTION 8:

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 take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

SECTION 31 of the Act identifies the functions of territorial authorities. The RPPPC relates specifically to Council's functions under 31(a) and (d), which reads:

- (a) *The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.*
- (d) *The control of the emission of noise and the mitigation of the effects of noise.*

SECTION 32:

- (1) *In achieving the purpose of this Act, before a proposed plan, proposed policy statement, change, or variation is publicly notified, a national policy statement or New Zealand coastal policy statement is notified under section 48, or a regulation is made, an evaluation must be carried out by*
 - (d) *the person who made the request, for plan changes that have been requested and the request accepted under clause 25(2)(b) of Part 2 of the Schedule 1.*
- (2) *A further evaluation must also be made by—*
 - (a) *a local authority before making a decision under clause 10 or clause 29(4) of the Schedule 1; and*
- (3) *An evaluation must examine—*
 - (a) *the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*
 - (b) *whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*
- (4) *For the purposes of this examination, an evaluation must take into account—*
 - (a) *the benefits and costs of policies, rules, or other methods; and*
 - (b) *the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.*
- (5) *The person required to carry out an evaluation under subsection (1) must prepare a report summarising the evaluation and giving reasons for that evaluation.*
- (6) *The report must be available for public inspection at the same time as the document to which the report relates is publicly notified or the regulation is made.”*

SECTION 72 identifies the purpose of District Plans, and reads as follows:

The purpose of the preparation, implementation, and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of this Act.

SECTION 73 provides for the preparation and change of District Plans. It states that variations and plan changes must be prepared in accordance with the First Schedule of the

Act. The First Schedule sets out the process for private plan change requests, and the required process of consultation, notification, submissions, hearings and decisions.

SECTION 74 is of particular relevance, and identifies the matters to be considered by a territorial authority when preparing a change or variation to a District Plan. Listed here are the clauses that are of relevance:

- (1) *A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part 2, a direction given under section 25A(2), its duty under section 32, and any regulations.*
- (2) *In addition to the requirements of section 75(3 and (4), when preparing or changing a district plan, a territorial authority shall have regard to—*
 - (a) *Any—*
 - (i) *Proposed regional policy statement; or*
 - (ii) *Proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4; and*
 - (b) *Any—*
 - (i) *Management plans and strategies prepared under other Acts; and*
to the extent that their content has a bearing on resource management issues of the district; and
- 2(A) *A territorial authority, when preparing or changing a district plan, must—*
 - (a) *Take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on resource management issues of the district; and*
- (3) *In preparing or changing any district plan, a territorial authority must not have regard to trade competition.*

SECTION 75 identifies the contents of District Plans. Of particular relevance is clause, which (3) reads:

- A district plan must give effect to:*
- (a) *any national policy statement*
 - (b) *any New Zealand Coastal Policy Statement*
 - (c) *any regional policy statement*

Clause 4 is also relevant and reads:

- A district plan must not be inconsistent with*
- (b) *a regional plan for any matter specified in section 30(1).*

2. RELEVANT PROVISIONS OF THE OTAGO REGIONAL POLICY STATEMENT

The following objectives and policies of the Regional Policy Statement are considered relevant to the consideration of the Plan Change:

Section 4 is entitled Manawhenua Perspective. It provides resource management issues relating to manawhenua perspective and identifies that objectives and policies are provided in each of the subsequent sections.

Section 5: Land

5 Land Objectives

Objective 5.4.1

To promote the sustainable management of Otago's land resources in order:

- To maintain and enhance the primary productive capacity and life-supporting capacity of land resources; and*
- To meet the present and reasonably foreseeable needs of Otago's people and communities.*

Objective 5.4.2

To avoid, remedy or mitigate degradation of Otago's natural and physical resources resulting from activities utilising the land resource.

Objective 5.4.4

To ensure that public access opportunities exist in respect of activities utilising Otago's natural and physical land features.

Policy 5.5.3

To maintain and enhance Otago's land resource through avoiding, remedying or mitigating the adverse effects of activities which have the potential to, among other adverse effects:

- (a) Reduce the soil's life supporting capacity*
- (b) Reduce healthy vegetative cover*
- (c) Cause soil loss*
- (d) Contaminate soils*
- (e) Reduce soil productivity*
- (f) Compact soils*
- (g) Reduce soil moisture holding capacity.*

Policy 5.5.4

To promote the diversification and use of Otago's land resource to achieve sustainable land use and management systems for future generations.

Policy 5.5.5

To minimise the adverse effects of land use activities on the quality and quantity of Otago's water resource through promoting and encouraging the:

- (a) Creation, retention and wherever practicable enhancement of riparian margins*
- (b) Maintaining and where practicable enhancing, vegetative cover, upland bogs and wetlands to safeguard land and water values; and*
- (c) Avoiding, remedying or mitigating the degradation of groundwater and surface water resources caused by the introduction of contaminants in the form of chemicals, nutrients and sediments resulting from land use activities.*

6 Water

Objective 6.4.7

To maintain and enhance public access to and along the margins of Otago's water bodies.

Objective 6.4.8

To protect areas of natural character, outstanding natural features and landscapes and the associated values of Otago's wetlands, lakes, rivers and their margins.

7. Air

Objective 7.4.1

To maintain and enhance Otago's existing air quality, including visual appearance and odour.

9 Built Environment

Objective 9.4.1

To promote the sustainable management of Otago's built environment in order to:

- Meet the present and reasonably foreseeable needs of Otago's people and communities; and*
- Provide for amenity values; and*
- Conserve and enhance environmental and landscape quality; and*
- Recognise and protect heritage values.*

Objective 9.4.2

To promote the sustainable management of Otago's infrastructure to meet the present and reasonably foreseeable needs of Otago's communities.

Objective 9.4.3

To avoid, remedy or mitigate the adverse effects of Otago's built environment on Otago's natural and physical resources.

Policy 9.5.2

To promote and encourage efficiency in the development and use of Otago's infrastructure through:

- (a) Encouraging development that maximises the use of existing infrastructure while recognising the need for more appropriate technology; and*
- (b) Promoting co-ordination amongst network utility operators in the provision and maintenance of infrastructure; and*
- (c) Encouraging a reduction in the use of non-renewable resources while promoting the use of renewable resources in the construction, development and use of infrastructure; and*
- (d) Avoiding or mitigating the adverse effects of subdivision, use and development of land on the safety and efficiency of regional infrastructure.*

Policy 9.5.3

To promote and encourage the sustainable management of Otago's transport network through:

- (a) Promoting the use of fuel efficient modes of transport; and*
- (b) Encouraging a reduction in the use of fuels which produce emissions harmful to the environment; and*
- (c) Promoting a safer transport system; and*
- (d) Promoting the protection of transport infrastructure from the adverse effects of landuse activities and natural hazards.*

Policy 9.5.4

To minimise the adverse effects of urban development and settlement, including structures, on Otago's environment through avoiding, remedying or mitigating:

- (a) *Discharges of contaminants to Otago's air, water or land; and*
- (b) *The creation of noise, vibration and dust; and*
- (c) *Visual intrusion and a reduction in landscape qualities; and*
- (d) *Significant irreversible effects on:*
 - (i) *Otago community values; or*
 - (ii) *Kai Tahu cultural and spiritual values; or*
 - (iii) *The natural character of water bodies and the coastal environment; or*
 - (iv) *Habitats of indigenous fauna; or*
 - (v) *Heritage values; or*
 - (vi) *Amenity values; or*
 - (vii) *Intrinsic values of ecosystems; or*
 - (viii) *Salmon or trout habitat.*

Policy 9.5.5

To maintain and, where practicable, enhance the quality of life for people and communities within Otago's built environment through:

- (a) *Promoting the identification and provision of a level of amenity which is acceptable to the community; and*
- (b) *Avoiding, remedying or mitigating the adverse effects on community health and safety resulting from the use, development and protection of Otago's natural and physical resources; and*
- (c) *Avoiding, remedying or mitigating the adverse effects of subdivision, landuse and development on landscape values.*

12 Energy

Objective 12.4.1

To avoid, remedy or mitigate the adverse effects on Otago's communities and environment resulting from the production and use of energy

Objective 12.4.2

To sustainably and efficiently produce and use energy taking into account community values and expectations.

Policy 12.5.3

To promote improved energy efficiency within Otago through:

- (a) *encouraging the use of energy efficient technology and architecture; and*
- (b) *educating the public about energy efficiency; and*
- (c) *encouraging energy efficiency in all industry sectors; and*
- (d) *encouraging energy efficient transport modes in Otago*

3. RELEVANT PROVISIONS OF THE REGIONAL PLAN: WATER

The following objectives and policies of the Regional Plan: Water are considered relevant to the consideration of the RPPPC:

Section 6: Water Quantity:

Objectives

- 6.3.1 *To retain flows in rivers sufficient to maintain their life-supporting capacity for aquatic ecosystems, and their natural character.*

- 6.3.2 *To provide for the water needs of Otago's primary and secondary industries, and community domestic water supplies.*
- 6.3.3 *To minimise conflict among those taking water.*
- 6.3.4 *To maximise the opportunity for diverse consumptive uses of water which is available for taking.*
- 6.4.1 *To enable the taking of surface water subject to defined allocation quantities and subject to provision for the retention of instream flows.*

Section 7- Water Quality

Section 7 provides policy guidance on water quality. This Section of the Plan contains the following objective:

- 7.5.1 *To maintain or enhance the quality of water in Otago's lakes and rivers so that it is suitable to support their natural and human use values and people's use of water.*

The following policies relate to point source discharges, and are therefore relevant when considering the infrastructure required to support either the Plan Change or the existing RVZ.

- 7.7.1 *To promote discharges of contaminants to land in preference to water, where appropriate.*
- 7.7.2 *When considering the discharge of any contaminant to land, to have regard to:*
 - (a) the ability of the land to assimilate the contaminant;*
 - (b) Any potential for soil contamination; and*
 - (c) Any potential for land instability.*
- 7.7.3 *When considering applications for resource consents to discharge contaminants to water, to have regard to opportunities to enhance the existing water quality of the receiving water body at any location for which the existing water quality can be considered degraded in terms of its capacity to support its natural and human use values.*
- 7.7.4 *When considering applications for resource consents to discharge contaminants to water....*
- 7.7.5 *When considering applications for resource consents, to have regard to the cumulative effects of discharges of contaminants and the assimilative capacity of the water body.*
- 7.7.10 *With respect to discharges from any new stormwater reticulation system, or any extension to an existing stormwater reticulation system, to require:*
 - (a) the separation of sewage and stormwater*
 - (b) measures to prevent contamination of the receiving environment by industrial or trade waste;*
 - (c) the use of techniques to trap debris, sediments and nutrients present in runoff.*

4. RELEVANT PROVISIONS OF THE LOCAL GOVERNMENT ACT (2002)

Section 77 is titled "Requirements in relation to decisions" and reads:

- (1) *A local authority must, in the course of the decision-making process;-*
 - (a) seek to identify all reasonably practicable options for the achievement of the objective of a decision; and*
 - (b) assess those options by considering-*
 - (i) the benefits and costs of each option in terms of the present and future social, economic, environmental, and cultural well-being of the district or region; and*

- (ii) *the extent to which community outcomes would be promoted or achieved in an integrated and efficient manner by each option; and*
 - (iii) *the impact of each option on the local authority's capacity to meet present and future needs in relation to any statutory responsibility of the local authority; and*
 - (iv) *any other matters that, in the opinion of the local authority, are relevant; and*
 - (c) *if any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Maori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga.*
- (2) *This section is subject to section 79.*

Section 78 is titled "Community views in relation to decisions", and reads:

- (1) *A local authority must, in the course of its decision-making process in relation to a matter, give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter.*
- (2) *That consideration must be given at-*
 - (a) *the stage at which the problems and objectives related to the matter are defined;*
 - (b) *the stage at which the options that may be reasonably practicable options of achieving an objective are identified;*
 - (c) *the stage at which reasonably practicable options are assessed and proposals developed.*
 - (d) *the stage at which proposals of the kind described in paragraph (c) are adopted.*
- (3) *A local authority is not required by this section alone to undertake any consultation process or procedure.*
- (4) *This section is subject to section 79.*

Section 79 is titled "Compliance with procedures in relation to decisions" and reads:

- (1) *It is the responsibility of a local authority to make, in its discretion, judgments—*
 - (a) *about how to achieve compliance with sections 77 and 78 that is largely in proportion to the significance of the matters affected by the decision; and*
 - (b) *about, in particular,—*
 - (i) *the extent to which different options are to be identified and assessed; and*
 - (ii) *the degree to which benefits and costs are to be quantified; and*
 - (iii) *the extent and detail of the information to be considered; and*
 - (iv) *the extent and nature of any written record to be kept of the manner in which it has complied with those sections.*
- (2) *In making judgments under subsection (1), a local authority must have regard to the significance of all relevant matters and, in addition, to—*
 - (a) *the principles set out in section 14; and*
 - (b) *the extent of the local authority's resources; and*
 - (c) *the extent to which the nature of a decision, or the circumstances in which a decision is taken, allow the local authority scope and opportunity to consider a range of options or the views and preferences of other persons.*
- (3) *The nature and circumstances of a decision referred to in subsection (2)(c) include the extent to which the requirements for such decision-making are prescribed in or under any other enactment (for example, the Resource Management Act 1991).*
- (4) *Subsection (3) is for the avoidance of doubt.*

Section 80 is titled "Identification of inconsistent decisions" and reads:

- (1) *If a decision of a local authority is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, any policy adopted by*

the local authority or any plan required by this Act or any other enactment, the local authority must, when making the decision, clearly identify—

- (a) the inconsistency; and*
- (b) the reasons for the inconsistency; and*
- (c) any intention of the local authority to amend the policy or plan to accommodate the decision.*

(2) Subsection (1) does not derogate from any other provision of this Act or of any other enactment.

Section 81 is titled “Contributions to decision-making processes by Maori” and reads:

- (1) A local authority must—*
 - (a) establish and maintain processes to provide opportunities for Maori to contribute to the decision-making processes of the local authority; and*
 - (b) consider ways in which it may foster the development of Maori capacity to contribute to the decision-making processes of the local authority; and*
 - (c) provide relevant information to Maori for the purposes of paragraphs (a) and (b).*
- (2) A local authority, in exercising its responsibility to make judgments about the manner in which subsection (1) is to be complied with, must have regard to—*
 - (a) the role of the local authority, as set out in section 11; and*
 - (b) such other matters as the local authority considers on reasonable grounds to be relevant to those judgments.*

Section 82 of the LGA is titled “Principles of consultation”, and reads:

- (a) that persons who will or may be affected by, or have an interest in, the decision or matter should be provided by the local authority with reasonable access to relevant information in a manner and format that is appropriate to the preferences and needs of those persons:*
- (b) that persons who will or may be affected by, or have an interest in, the decision or matter should be encouraged by the local authority to present their views to the local authority:*
- (c) that persons who are invited or encouraged to present their views to the local authority should be given clear information by the local authority concerning the purpose of the consultation and the scope of the decisions to be taken following the consideration of views presented:*
- (d) that persons who wish to have their views on the decision or matter considered by the local authority should be provided by the local authority with a reasonable opportunity to present those views to the local authority in a manner and format that is appropriate to the preferences and needs of those persons:*
- (e) that the views presented to the local authority should be received by the local authority with an open mind and should be given by the local authority, in making a decision, due consideration:*
- (f) that persons who present views to the local authority should be provided by the local authority with information concerning both the relevant decisions and the reasons for those decisions.*