

Appendix Two:

Statutory Considerations

Section 74 states:

- (1) A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part 2, its duty under section 32, and any regulations.
- (2) In addition to the requirements of section 75(2), 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
 - (ii) Repealed
 - (iii) Relevant entry in the Historic Places Register; and
 - (iv) Regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing), to the extent that their content has a bearing on resource management issues of the district; and
 - (c) The extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.
- (2A) 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
 - (b) recognise and provide for the management plan for a foreshore and seabed reserve adjoining its district, once the management plan has been lodged with the territorial authority, to the extent that its contents have a bearing on the resource management issues of the district.
- (3) In preparing or changing any district plan, a territorial authority must not have regard to trade competition.

Section 31 states:

- (1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:
 - (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:

- (b) *the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—*
 - i) *the avoidance or mitigation of natural hazards; and*
 - ii) *the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances; and*
 - iii) *the maintenance of indigenous biological diversity:*
- (c) *Repealed*
- (d) *The control of the emission of noise and the mitigation of the effects of noise:*
- (e) *The control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes:*
- (f) *Any other functions specified in this Act*
- (2) *The methods used to carry out any functions under subsection (1) may include the control of subdivision.*

Section 5(1) states that the purpose of the Act is to promote the sustainable management of natural and physical resources.

“Natural and physical resources” are defined in Section 2 of the Act as including “land, water, air, soil, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced), and all structures.”

Under Section 5(2) “sustainable management” is interpreted to mean:

- ... 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 well being 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 Matters of National Importance identifies the following matters of national importance in achieving the purpose of the Act:

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 Other Matters identifies the following items that shall be had particular regard to in achieving the purpose of the Act :

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

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

Section 8 Treaty of Waitangi states:

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 32 states:

- (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—*
 - (a) *the Minister, for a national policy statement or regulations made under section 43; or*
 - (b) *the Minister of Conservation, for the New Zealand coastal policy statement; or*
 - (c) *the local authority, for a policy statement or a plan (except for plan changes that have been requested and the request accepted under clause 25(2)(b) of Part 2 of Schedule 1); or*

- (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*
 - (b) *the relevant Minister before issuing a national policy statement or New Zealand coastal policy statement.*
- (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.*

Clause 10 of the First Schedule to the RMA, states:

10. *Decision of local authority*

- (1) *Subject to clause 9, whether or not a hearing is held on a proposed policy statement or plan, the local authority shall give its decisions, which shall include the reasons for accepting or rejecting any submissions (grouped by subject-matter or individually).*
- (2) *The decisions of the local authority may include any consequential alterations arising out of submissions and any other relevant matters it considered relating to matters raised in submissions.*
- (3) *If a local authority publicly notifies a proposed policy statement or plan under clause 5, it must, not later than 2 years after giving that notice, make its decisions under subclause (1) and publicly notify that fact.*
- (4) *On and from the date of the public notice given under subclause (3), the proposed plan is amended in accordance with the decisions of the local authority given under subclause (1).*