



Central Otago District Plan

REVIEW DISCUSSION DOCUMENT

Contents

| | | |
|------|--|----|
| 1.0 | Introduction | 2 |
| 2.0 | Legislative Background | 2 |
| 3.0 | Plan Format..... | 5 |
| 4.0 | Manawhenua..... | 6 |
| 5.0 | Rural Areas | 6 |
| 6.0 | Urban Areas | 10 |
| 7.0 | Indigenous Biodiversity..... | 14 |
| 8.0 | Built Heritage..... | 14 |
| 9.0 | Hazards..... | 15 |
| 10.0 | Other Matters | 17 |
| 11.0 | How to Respond to Discussion Document..... | 18 |
| | Annex 1 : Those Who Commented in 2013..... | 19 |
| | Annex 2 : Matters to be Considered when Preparing a District Plan..... | 19 |

1.0 Introduction

The Central Otago District Plan was prepared during the 1990s; was publicly notified for submissions on 18 July 1998; and became finally operative on 1 April 2008.

The Council is now giving consideration to a review of the Central Otago District Plan. In June 2013 the Council invited comments from members of the public to assist in identifying the significant resource management issues and any other matters that should be addressed in the reviewed District Plan. These comments have materially assisted the Council in preparing this discussion document; and the Council wishes to acknowledge the contribution of those parties who provided comment in 2013 and who are listed at Annex 1 to this document

This document discusses potential changes to the provisions of the Central Otago District Plan. The approach taken is to clearly state the Council's current intention with respect to the issue under consideration. Potential changes have been identified at this early stage in the review process to obtain feedback from the public and interested agencies before work commences in earnest on the preparation of the District Plan Review. The Council encourages members of the public and other interested parties to respond in writing to the contents of this discussion document and to raise any other issues that should be addressed during the preparation of the Central Otago District Plan Review.

All submissions in response to this discussion document will be considered by the Council's Hearings Panel; and those who make submissions will have the opportunity to present their submissions in person to the Hearings Panel early in the New Year.

2.0 Legislative Background

2.1 RESOURCE MANAGEMENT ACT 1991

The Resource Management Act 1991 (the Act) provides the statutory authority for the preparation of District Plans. There are several key sections of the Act that are relevant; and these are presented below and in Annex 2.

The Act (section 73(1)) requires that there shall at all times be one District Plan for each District prepared by the territorial authority. The purpose of District Plans is stated in section 72 of the Act:

"72. Purpose of district plans – *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 31 states the functions of territorial authorities under the Act:

"31. Functions of territorial authorities under this Act – (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*
 - (iia) *the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land:*
 - (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."*

The focus of the District Plan is therefore upon the management of the effects of land use and the control of subdivision within the Central Otago District in order to achieve the purpose of the Act which is to promote the sustainable management of natural and physical resources.

"Sustainable management" is defined in Section 5 of the Act and 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 75(1) of the Act prescribes the mandatory contents of the District Plan. Section 75(1) states:

"75 Contents of district plans

- (1) *A district plan must state-*
 - (a) *the objectives for the district; and*
 - (b) *the policies to implement the objectives; and*
 - (c) *the rules (if any) to implement the policies."*

Section 76(2) of the Act confirms that every rule has the force and effect of a regulation under the Act. When interpreting a rule it is mandatory to consider the objectives and policies stated in the District Plan.

2.2 NATIONAL POLICY STATEMENTS, REGIONAL POLICY STATEMENT, WATER CONSERVATION ORDER AND REGIONAL PLANS

Section 75(3) of the Act directs that a District Plan must give effect to any National Policy Statement and any Regional Policy Statement.

National Policy Statements that have been approved and issued under section 52 of the Act include the following:

- **National Policy Statement on Electricity Transmission 2008**
- **National Policy Statement for Freshwater Management 2014**
- **National Policy Statement for Renewable Electricity Generation 2011**

In addition there is a **New Zealand Coastal Policy Statement** that is not relevant in the context of the Central Otago District.

The **Regional Policy Statement for Otago** became operative on 1 October 1998.

Section 75(4) of the Act directs that a District Plan must not be inconsistent with a Water Conservation Order or a Regional Plan for any matter specified in section 30(1) of the Act.

The **Water Conservation (Kawarau) Order 1997** applies to the Kawarau River and its tributaries including the Nevis River within the District.

Operative Regional Plans prepared by the Otago Regional Council include:

- **Regional Plan : Waste 1997**
- **Regional Plan : Coast 2001**
- **Regional Plan : Air 2003**
- **Regional Plan : Water 2004**

Various plan changes have been made to the Regional Plan : Air and the Regional Plan : Water since these Regional Plans first became operative. The Council notes in particular that Plan Change 6A (Water Quality) to the Regional Plan : Water became operative on 1 May 2014.

Section 74(2) of the Act directs that when preparing or changing a District Plan, a territorial authority shall have regard to any Proposed Regional Policy Statement; or to any Proposed Regional Plan in regard to any matter of regional significance or for which the Regional Council has primary responsibility under Part 4 of the Act. There are no such proposed regional planning documents in existence at this time.

2.3 OTHER DOCUMENTS

The Act directs the Council to have regard to documents other than those referred to in 2.2 (above) when preparing a District Plan. Section 74(2)(b) and (c) direct that a territorial authority shall have regard to:

- “(b) Any-
- (a) *Management plans and strategies prepared under other Acts; and*
 - (ii) *Repealed.*
 - (iia) *Relevant entry in the Historic Places Register; and*
 - (iii) *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.”*

Section 74(2A) also requires that a territorial authority, when preparing a District Plan, must 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 the resource management issues of the district. The Council acknowledges in this context the **Kāi Tahu ki Otago Natural Resource Management Plan 2005**, the content of which has a bearing on the resource management issues of the Central Otago District.

2.4 LEGISLATIVE CHANGE

Parts 2.1 – 2.3 acknowledge the existing legislation and planning documents which are currently in force. It is acknowledged that legislative changes may occur which are likely to be relevant to the preparation of the Central Otago District Plan.

Of particular note is that the government has advanced proposals for fundamental change to the principles of the Act as stated in sections 6 and 7 that are reproduced in Annex 2. In the event that such amendments are made to the Act, the District Plan must be prepared in accordance with those amended provisions pursuant to section 74(1) of the Act. The Council will carefully monitor progress with respect to changes to the Act that have a bearing on the preparation of the Central Otago District Plan.

Changes can also be expected in the planning instruments which apply at a regional and district level. The Otago Regional Council is undertaking a review of the Regional Policy Statement for Otago and second generation District Plans are currently being prepared by neighbouring territorial

local authorities. The Council will monitor progress with respect to the reviews of the Regional Policy Statement and the District Plans for neighbouring districts, as the outcomes of these review processes are likely to be relevant to the preparation of the Central Otago District Plan in terms of sections 75(3)(c), 74(2)(a)(i) and 74(2)(c) of the Act.

3.0 Plan Format

3.1 ROLLING REVIEW V FULL REVIEW

The Act provides for two approaches to a review of the District Plan. Section 79(1) requires that a local authority must commence a review of a provision of a District Plan if the provision has not been subject to a proposed plan or a plan change by the local authority during the previous 10 years. This provides for the process that is commonly referred to as a “rolling review”, and enables a Council to review individual plan provisions or sets of provisions on a sequential basis. Such an approach could, say, provide for separate reviews to be initiated with respect to the Rural, Residential, Business and Industrial Resource Area provisions of the District Plan.

Section 79(4) of the Act provides for the alternative of commencing a full review of the District Plan at any time. This “full review” approach would result in all provisions of the District Plan being reviewed at the same time.

The Council has considered the advantages and disadvantages of conducting a rolling review or a full review. The Council considers that the full review option has significant advantages in terms of being administratively straightforward; providing for an integrated review of all plan provisions; and having significant cost efficiencies – as there is only one review process. A full review is preferred to a rolling review of the provisions of the Central Otago District Plan.

3.2 WHOLE DISTRICT V TERRITORIAL SECTION PLAN

Section 73(3) of the Act provides for the District Plan to be prepared in territorial sections. The current Central Otago District Plan applies to the whole of the Central Otago District; and this approach is preferred to preparing a review of the Central Otago District Plan in territorial sections. Plan preparation on the basis of territorial sections would result in inefficiencies and would introduce the potential for inconsistent planning provisions to be applied across the District.

The Central Otago District Plan Review will apply to the whole of the Central Otago District.

3.3 PLAN PRESENTATION

The current Central Otago District Plan has been prepared in terms of the Act albeit that various provisions of the District Plan have been amended through the plan change and designation processes since the District Plan was prepared.

The format of the current Central Otago District Plan has proven to work well in practice. Accordingly the District Plan Review will focus on updating the provisions of the current Central Otago District Plan to correspond to the current legislative framework and to meet the current and foreseeable needs of the community.

It is not necessary to “reinvent the wheel” and a totally new approach to District Plan presentation and content is not justified when preparing the Central Otago District Plan Review.

4.0 Manawhenua

Manawhenua are those iwi or hapū who exercise customary authority or rakatirataka in an identified area, being in this instance the Central Otago District.

Section 8 of the Act requires every person who exercises functions or powers under the Act in relation to the use, development and protection of natural and physical resources to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). The Act also specifies that every person who exercises such functions and powers must recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga as a matter of national importance (section 6(e) of the Act).

Section 7(a) of the Act also requires that every person exercising such functions and powers shall have particular regard to Kaitiakitanga.

The First Schedule to the Act requires the Council to consult with the tangata whenua of the area who may be affected by the District Plan, through iwi authorities. The preparation of this discussion document provides an early basis for such consultation.

The Council records that when the current Central Otago District Plan was prepared extensive consultation occurred with the relevant iwi authority being Te Rūnanga o Ngāi Tahu through various rūnaka including Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga Ōtākou. The outcome of such consultation is that the current District Plan contains information with respect to the Treaty and Kāi Tahu ki Otago's historical links with the Central Otago District (in Sections 1 and 2 respectively); contains Section 3 : Manawhenua; identifies Nohoanga (Nohoaka) [traditional camping sites] and archaeological sites, wāhi tapu and wāhi taoka of importance to rūnaka; and contains a suite of rules to ensure that significant adverse effects on values of significance to rūnaka are avoided, remedied or mitigated.

The Council anticipates that fresh consultation will now occur with the relevant iwi authorities recognising that manawhenua is exercised through the papatipu (original Maori land) rūnaka of the region. It is anticipated that the Central Otago District Plan Review will build upon the current Central Otago District Plan provisions and will achieve better integration between Section 3 : Manawhenua and other provisions of the District Plan Review.

The Council will also consult with Kāi Tahu rūnaka to determine whether the District contains significant cultural landscapes valued by rūnaka which should be recognised in the Central Otago District Plan Review.

The Council acknowledges that the **Kāi Tahu ki Otago Natural Resource Management Plan 2005** will provide a valuable resource during the preparation of the Central Otago District Plan Review; this being a relevant planning document that must be taken into account pursuant to section 74(2A) of the Act.

5.0 Rural Areas

5.1 ZONING

The current Central Otago District Plan makes provision for the Rural Resource Area and the Water Surface and Margin Resource Area that contain provisions relevant to land use and subdivision activity in rural areas.

This zoning structure is to be maintained in the Central Otago District Plan Review.

5.2 LANDSCAPE CLASSIFICATION

In 2005 a Rural Study was initiated by the Council to address rural development issues, particularly relating to subdivision and development in the rural parts of the District. Plan Changes 5A-5W were

the result and these plan changes generally relate to land in the rural parts of the Central Otago District. Plan Changes 5A-5W became operative on 15 July 2013.

Plan Changes 5A and 5R have introduced a tripartite classification of landscapes in the Central Otago District. As a consequence the current Central Otago District Plan categorises landscape into Outstanding Natural Landscapes, Significant Amenity Landscapes and Other Rural Landscapes. In addition Outstanding Natural Features are identified.

This tripartite landscape classification will be retained in the Central Otago District Plan Review. Such an approach is considered appropriate and makes use of the substantial investment that has been made by the community in the context of the Rural Study and Plan Changes 5A-5W.

5.3 RURAL SUBDIVISION AND RESIDENTIAL DEVELOPMENT

An outcome of Plan Changes 5G and 5H has been refined provisions with respect to subdivision and residential activity in the Rural Resource Area.

The provisions which are the outcome of the Rural Study and Plan Changes 5G and 5H are to be retained in the Central Otago District Plan Review with greater emphasis to be placed on sustaining the productive land resource in the context of subdivision; and subject to minor changes being made to improve the existing provisions, where appropriate. Consideration is to be given to providing for more intensive subdivision of land subject to the Rural Residential notation as discussed in Section 5.8 of this document.

5.4 RURAL LAND USE CHANGE

In recent years significant change has occurred with respect to land use in some rural parts of the District. During the 1990s and 2000s the areas used for fruit production and viticulture have significantly expanded, with approximately 1580 hectares being used for fruit production in 2010/11 (including approximately 470 hectares in cherry trees) and some 1750 hectares now being planted in grapes in the wider Central Otago area. Vineyard development has occurred in areas that were sparsely grazed in the past.

In recent years parcels of land have been used for large scale dairying and for the raising and wintering of dairy cattle from other areas.

Fruit production, viticulture and dairying has occurred as a permitted activity in terms of the current Central Otago District Plan.

The Council acknowledges that concerns have been expressed by some in the community with respect to the effect of dairying in terms of soil conservation, water quality, landscape and biodiversity.

The Council considers that the Otago Regional Council is the agency best resourced to address issues associated with dairying in the context of soil conservation and in terms of maintaining and enhancing the quality of water; and it is acknowledged that a statutory function of the Regional Council in terms of section 30(1)(c) of the Act is the control of the use of land for the purpose of, amongst other matters, soil conservation and the maintenance and enhancement of the quality of water in waterbodies. The Otago Regional Council has primary responsibility for water management and it is acknowledged that a regime for improving water quality has now been put in place through Plan Change 6A to the **Regional Plan : Water**.

The Council is committed to maintaining ongoing dialogue with the Otago Regional Council to address issues associated with rural land use intensification; and to ensuring that the community is well informed with respect to those issues.

In terms of landscape effects it is noted that rural land use intensification tends to occur at lower elevations and not on landscapes categorised as Outstanding Natural Landscapes. Where buildings are proposed the effect on the landscape can be addressed through the provisions of the current

Central Otago District Plan (or their equivalent in the review). The Council has concluded that no distinction should be drawn between dairying and other types of farming, in terms of effects on the landscape.

The Council considers that any effects of rural land use on biodiversity values can be addressed via appropriate provisions to be included in the District Plan Review (see Section 7.0 of this document).

The Council's conclusion is that the Central Otago District Plan Review should not contain a regulatory regime with respect to rural land use change which distinguishes between one form of farming and another.

5.5 REVERSE SENSITIVITY

Some rural activities, particularly those of a short duration or seasonal nature, can generate noise and other effects that can disturb neighbours.

It is acknowledged that the Rural Resource Area is an area for rural production; and that some aspects of such production has the potential to disturb neighbours. New developments locating near such rural activities must recognise and accept the prevailing environmental characteristics associated with production and other activities that are found in the Rural Resource Area.

The Council does not consider it appropriate to introduce provisions which would have the effect of banning gas guns, wind machines or similar devices in the Rural Resource Area. The Council acknowledges in this context that the current Central Otago District Plan contains a rule with respect to noise in the Rural Resource Area (Rule 4.7.6E). This rule will be revisited to ensure that it is effective and it is anticipated that a similar or refined noise rule will be included in the Central Otago District Plan Review.

5.6 TENURE REVIEW EXEMPTION

The current Central Otago District Plan contains rules relating to the clearance of indigenous vegetation (Rule 4.7.6KA) and with respect to Outstanding Natural Landscapes, Outstanding Natural Features and Land in the Upper Manorburn/Lake Onslow Landscape Management Area (Rule 4.7.6L).

Both rules contain exemptions for properties that have been freeholded through tenure review under Part 2 of the Crown Pastoral Land Act 1998; and these rules do not apply to this land on the basis that indigenous vegetation values and/or landscape values were fully assessed during the tenure review process.

Recent caselaw strongly suggests that such an exemption is no longer appropriate. The decision of the Environment Court in Royal Forest & Bird Protection Society of New Zealand Inc. v Waitaki District Council (Dec [2012] NZ Env C252) gave consideration to such an exemption in the context of indigenous vegetation clearance in the Waitaki District.

The Court concluded that the exemption from the general indigenous vegetation clearance rule for land that has been through tenure review would not promote the purpose of the Act being sustainable management. The Court considered that a resource consent process for indigenous vegetation clearance should cover all of the land in the Waitaki District and that this will enable the effects of clearance, the regional and district plan objectives and policies, other relevant matters and Part 2 of the Act to be considered for specific proposals.

The Council has concluded, based on the findings in the Waitaki decision, that the tenure review exemption contained in Rule 4.7.6KA and Rule 4.7.6L of the current Central Otago District Plan should not be included in the Central Otago District Plan Review.

5.7 WILDING TREES

The current Central Otago District Plan contains a suite of rules with respect to trees which have wilding propensity. These rules include Rules 4.7.4(viii), 4.7.4(ix), 4.7.5(v) and 4.7.5A(i).

Currently Rule 4.7.4(viii) permits the establishment of a woodlot, production forest and/or shelterbelt that is 2 hectares or less in area (or a shelterbelt having a maximum width of 8 metres measured stem to stem) and that comprises Douglas Fir, European Larch, Ponderosa Pine, Bishops Pine, Maritime Pine and/or Radiata Pine as a permitted activity.

The rule permits substantial plantations of species that have propensity for wilding spread with associated potential for adverse effects on the landscape. The Council proposes to revisit this rule with a view to deleting the 2 hectare threshold and shelterbelt exemption. If this were to occur all plantings with wilding propensity would require a resource consent.

5.8 RURAL RESIDENTIAL NOTATION

The current Central Otago District Plan applies the Rural Residential notation to certain portions of land in the Rural Resource Area where closer subdivision and development is provided for. Subdivision (that achieves an average allotment size of no less than 2 hectares) and residential activity is provided for as a controlled activity on land subject to the Rural Residential notation. The Council cannot refuse resource consent to a controlled activity.

The Council will give consideration to establishing a minimum lot area of 1 hectare on land subject to the Rural Residential notation in the District Plan Review. This will provide for more intensive rural residential subdivision and development in these areas, reducing pressure for such subdivision and development elsewhere in the Rural Resource Area. More intensive subdivision will require that particular attention be given to water supply and the capability of allotments for wastewater disposal during the subdivision consent process.

Land subject to the Rural Residential notation is generally located in close proximity to existing towns within the Central Otago District. As part of the Central Otago District Plan Review consideration will be given to the extension of the area subject to the Rural Residential notation on land generally to the south of Springvale Road in the Springvale Road/State Highway 85/Dunstan Road triangle; in the Earnsclough Road/Chapman Road/Conroys Road triangle; and south of Bannockburn. These are localities where significant rural residential subdivision and development has occurred during recent decades.

The Council welcomes comment with respect to the closer subdivision of land subject to the Rural Residential notation and to the extension of the area subject to that notation. The Council anticipates that areas in addition to those identified above may also be nominated for Rural Residential status.

Land subject to the Rural Residential notation remains in the Rural Resource Area. As noted in Section 5.5 of this document the Rural Resource Area is an area for rural production; and those who choose to live in the Rural Resource Area (including on land subject to the Rural Residential notation) must recognise and accept the prevailing environmental characteristics associated with such rural production.

6.0 Urban Areas

The urban areas include the towns and settlements of the Central Otago District. Within urban areas a number of distinct environments can be identified. These include the residential areas where people live; the business environments where people work, shop and socialise; and the industrial areas of the District.

6.1 PROVISION FOR URBAN GROWTH

During the past two decades significant growth has occurred within the District's urban areas. Much of the land zoned for new development in the current Central Otago District Plan in the larger towns has been subdivided and developed for urban purposes. The Central Otago District Plan Review will make provision for future urban growth.

The Council considers it appropriate to establish a 20 year planning horizon for the purposes of urban zoning in the District Plan Review. Experience with the current Central Otago District Plan has confirmed that it can take several years for a District Plan to progress from the initial preparation stage through to being an operative District Plan. Furthermore the District Plan Review will not be due for a further review until it has been operative for 10 years. These factors lend weight to the Council's conclusion that a 20 year planning horizon is appropriate.

The Central Otago District Plan Review will zone land for future residential, business and industrial purposes; the area to be zoned will correspond to the land area that is required to accommodate 20 years growth in the particular urban area concerned.

In some instances it may be necessary to adopt a deferred zoning approach. This technique enables land to be released for urban subdivision and development at some time in the future. The trigger for this release could be a set time period (ie. a date when the deferral will be uplifted) and/or when services such as wastewater reticulation become available to that land.

Deferred zoning is likely to be particularly relevant to Clyde. Clyde cannot expand beyond the present urban boundary until reticulated wastewater disposal is available. It may be that the Central Otago District Plan Review identifies areas for future growth of Clyde but such growth will not be able to occur until reticulated wastewater services become available.

Parties who responded to the 2013 invitation for comments have nominated specific areas for residential development. Examples include provision for intensification of the Picnic Creek subdivision at Earnsclough opposite Clyde and provision for residential development to the south of the Oughter Street bridge at Naseby. Consideration will be given to these areas along with others when considering whether additional areas should be zoned for residential purposes in or adjacent to existing urban areas. At that time all relevant matters, including the availability of services and the presence of hazards, will be taken into account in determining whether land is suitable for rezoning for urban purposes.

6.2 RESIDENTIAL

6.2.1 Residential Subdivision

The current Central Otago District Plan establishes a minimum lot area of 250m² for subdivision in the Residential Resource Area where a reticulated sewerage system is available (Rule 7.3.3(i)(a)). This minimum lot area enables the market to determine what are appropriate lot sizes over and above this 250m² minimum.

In practice the 250m² minimum lot rule has enabled the subdivision of traditional 1000m² and 800m² lots occupied by dwellings to create two allotments, providing for intensification of residential subdivision and development in existing residential areas. Where undeveloped land has been opened up for residential subdivision lot areas significantly in excess of 250m² have been the norm.

It is the Council's intention to keep the 250m² minimum lot area standard in the Residential Resource Area in the Central Otago District Plan Review.

6.2.2 Residential Resource Areas (1)-(13)

The current Central Otago District Plan provides for the Residential Resource Areas (1) – (13) which provide for residential development on larger lots. In some instances these provisions are a “carry over” from earlier District Schemes prepared under the Town and Country Planning Act 1977 and in other instances they have been introduced into the current Central Otago District Plan during the plan preparation process or via plan changes.

As part of the District Plan Review the Council will give consideration to whether some rationalisation is possible and whether the number of these Residential Resource Areas can be reduced.

There is a current anomaly in the Residential Resource Area rules as multi-unit development is a discretionary (restricted) activity in the Residential Resource Areas (1) – (12) where a site area of 250m² is achieved where a reticulated sewerage system is available (in terms of Rule 7.3.3(vi)) notwithstanding that larger lot areas (often much in excess of 250m²) are required for subdivision in the Residential Resource Areas (1) – (12). The District Plan Review will require that the site area requirement for multi-unit development will correspond to the minimum lot area for subdivision on the land concerned.

6.2.3 Extended Family Accommodation

The provision of additional accommodation for extended family within a residential building by providing separate sleeping, cooking, dining and ablution facilities for the extended family member or members is deemed to constitute two household units; and this requires a land use consent for multi-unit development that has status as a discretionary (restricted) activity in the Residential Resource Area as provided for in the current Central Otago District Plan.

The Council considers that such extended family accommodation can be distinguished from other forms of multi-unit development in terms of the limited effects on the environment. As a consequence the Council will give consideration to specifically providing for such additional accommodation for extended family within a residential building as a controlled activity (which the Council cannot refuse consent for) in the Central Otago District Plan Review.

6.2.4 Rules Relating to Residential Subdivision and Development

The existing rules with respect to residential subdivision and development have worked well in practice.

The Council is considering some changes to the existing rules in the District Plan Review including the removal of the 3 metre unobstructed access rule for subdivision in the Residential Resource Area; solar orientation to become a matter for the exercise of discretion in the context of residential subdivision; and explicitly providing for solar power generation and micro generation as an integral part of residential activity which is a permitted activity in the Residential Resource Area.

6.2.5 Homestay Accommodation

The current Central Otago District Plan provides for homestay as part of residential activity which is a permitted activity in the Residential Resource Area. “Homestay” means the use of a residential building for short term living accommodation for up to 6 persons on a commercial fee paying basis where those persons share the use of the residential building with the permanent occupants (residents).

Travellers accommodation is generally provided for as a discretionary activity (that requires resource consent) in the Residential Resource Area in terms of Rule 7.3.4(iii); and is a non-complying activity in the Residential Resource Areas (1) – (13) (see Rule 7.3.5(iii)).

The Council has given consideration to whether the current distinction between homestay and travellers accommodation should be retained. The Council considers that such a distinction is appropriate on the basis that homestay accommodation is managed by those present within the residential building and is limited in scale; whereas travellers accommodation can be distinguished on the basis of potential effects on the environment (due to potential larger scale, traffic, signage and/or more remote or off-site management). The Council's intention is that the Central Otago District Plan Review will continue to provide for homestay accommodation as part of residential activity.

6.3 BUSINESS RESOURCE AREA

6.3.1 Business Resource Area (1)

The Business Resource Area (1) has been applied to land at Cromwell and Alexandra to provide for the development of large scale commercial activities. Shops in the Business Resource Area (1) are required to have a minimum floor area of 600m² in terms of Rule 8.3.6(i) of the current Central Otago District Plan.

The Council wishes to ensure that the minimum floor area for shops in the Business Resource Area (1) is appropriate to provide for large scale ("big box") commercial activities in the Central Otago District context; but that this minimum floor area is not set at a level that would result in the fragmentation of traditional retail activity areas that are concentrated in the Business Resource Area at Alexandra and Cromwell. The Council will give consideration to reducing the minimum floor area for shops in the Business Resource Area (1) from 600m² to 500m² in the Central Otago District Plan Review.

In recent years substantial commercial development has occurred in the Business Resource Area (1) generally to the west of Sargood Road at Cromwell. The current District Plan also provides for additional expansion to occur via a continuation of Iles Street in this locality.

The Council considers that the Business Resource Area (1) should be retained at Cromwell in the Central Otago District Plan Review. The Council considers however that land to the east of Murray Terrace (which contains smaller allotments) should no longer be in the Business Resource Area (1) but should be located in the Business Resource Area instead. Existing and future retail activity on this land is at a smaller scale than provided for in the Business Resource Area (1).

The Council will also give consideration to the reconfiguration of the Business Resource Area (1) that applies to land to the west of State Highway 8 and to the north of the Pines residential area at Alexandra. Part of this land may be better suited to residential purposes; and the Council considers that a wider frontage to State Highway 8 would be appropriate for the Business Resource Area (1) at Alexandra.

6.3.2 Rules of the Business Resource Area (including Business Resource Area (1))

As part of the Central Otago District Plan Review the Council will revisit the rules which apply to the Business Resource Area (including the Business Resource Area (1)).

The current Central Otago District Plan contains parking requirements based on a long standing assessment of the parking that is required for various commercial activities (see Table 12.3 in Section 12). The Council will undertake an audit to determine whether these parking requirements are still appropriate or whether they require amendment.

The Council also acknowledges that the maximum signage limits applying to both the Business Resource Area and the Business Resource Area (1) (see Rule 8.3.6(iv)) are uniform. It appears that the maximum signage permitted should be increased with respect to the Business Resource Area (1) where buildings that accommodate large scale commercial activities are provided for.

6.4 INDUSTRIAL RESOURCE AREA

6.4.1 Retail Activity in Industrial Resource Area

The current Central Otago District Plan makes limited provision for retail activity in the Industrial Resource Area. Such retail activity is required to form an integrated and complementary part of any industrial activity; and is not to occupy more than 10% of the gross floor space of the building or 50m², whichever is greater.

In recent years retail activity has occurred on a limited scale within the Industrial Resource Area. In some instances retail activity has been consented that does not form part of an industrial activity and is in essence a “stand alone” retail venture.

The Council acknowledges that the prevailing amenity values in Industrial Resource Areas are not conducive to retail activity. The Council also acknowledges that traffic and pedestrian movements associated with retail activity may conflict with heavy vehicle traffic that is necessary to service activities in the Industrial Resource Area.

The Council will give consideration in the Central Otago District Plan Review to whether the existing controls with respect to retail activity in the Industrial Resource Area are appropriate or need to be made more rigorous to discourage stand alone retail activity beyond the existing Business Resource Areas.

6.4.2 Residential Activity in the Industrial Resource Area

In recent years a mixture of uses has occurred in the Industrial Resource Area, including residential activity at ground floor and first floor level. Such residential development has occurred in particular in the Industrial Resource Area at Cromwell.

Given the effects based approach inherent in the current Central Otago District Plan the only constraint to such activity is Rule 9.3.5(iii)(b) which provides for noise sensitive activities. The intent of this rule is that noise sensitive activities that locate in the Industrial Resource Area are required themselves to take steps to mitigate the effects of any noise generated by nearby industrial activities.

Resource consents have been granted for residential activity which breaches Rule 9.3.5(iii)(b). Such consents have generally been granted on the basis that it is not practicable to achieve compliance with the nominated noise level within any habitable room with windows and doors open.

The Council questions whether it is appropriate to provide for residential activity in the Industrial Resource Area given the potential adverse effects associated with industrial activity and the need to enable a wide range of industrial activities to operate in the Industrial Resource Area.

The Council will give consideration to whether residential activities should be more rigorously controlled in Industrial Resource Areas as part of the Central Otago District Plan Review. Provision is to be made for reverse sensitivity effects to be considered via the resource consent process; and for the implementation of other methods to address reverse sensitivity effects on existing and future industrial activities in the Industrial Resource Area.

7.0 Indigenous Biodiversity

7.1 INDIGENOUS BIOLOGICAL DIVERSITY

The maintenance of indigenous biological diversity is now a function of territorial authorities pursuant to section 31(1)(b)(iii) of the Act. This function has been introduced subsequent to the preparation of the current Central Otago District Plan. As a consequence greater emphasis will be placed on maintaining indigenous biological diversity in the Central Otago District Plan Review.

Wherever practicable voluntary mechanisms will be encouraged and provided for in the Central Otago District Plan Review with respect to maintaining biological diversity. The Council acknowledges however that in some instances rules will be required to ensure that indigenous biological diversity is maintained in the Central Otago District. Rules contained in the current Central Otago District Plan including Rules 4.7.6K and 4.7.6KA will be revisited to ensure that they are effective.

7.2 INFORMATION WITH RESPECT TO BIODIVERSITY

The Department of Conservation has offered to provide information with respect to biodiversity on private land. Such information will be used to refine the existing Schedule 19.6.1 : Area of Significant Indigenous Vegetation, Habitats of Indigenous Fauna and Wetlands that is included in the current Central Otago District Plan. Such information will also be used to refine other schedules, including Schedule 19.6A and Schedule 19.6B which lists Additional Wetlands and Acutely Threatened and Chronically Threatened Plants.

Schedule 19.6.1 and Schedule 19.6A Additional Wetlands will be revisited in the District Plan Review so that they are fully aligned with the current provisions of the Regional Plan : Water.

8.0 Built Heritage

8.1 REGISTER OF HERITAGE ITEMS

Schedule 19.4 to the current Central Otago District Plan contains a Register of approximately 290 Heritage Buildings, Places, Sites and Objects. These registered heritage items are subject to Rules 14.7.1(a) and (b) which provides some degree of protection through the resource consent process. The Council's policy is to waive resource consent fees where such consent is only required as the heritage item is listed in the Register.

While the existing Schedule 19.4 is reasonably comprehensive it is acknowledged that additional items may now have been recognised by being placed on the New Zealand Historic Places Register. It is anticipated that additional items will also be nominated for inclusion in Schedule 19.4 by members of the public and interested agencies in response to this discussion document.

Where the Council considers that the addition of a nominated heritage item to the register has merit; consultation will occur with the owner of the property concerned prior to the inclusion of any such heritage item in the relevant Schedule in the Central Otago District Plan Review.

It is anticipated that all existing heritage items currently listed in Schedule 19.4 will continue to be included in an equivalent Schedule (Register) in the District Plan Review.

8.2 HERITAGE PRECINCTS

The current Central Otago District Plan has identified Heritage Precincts in St Bathans, Clyde, Ophir, Naseby and at Old Cromwell. Rules 11.4.1(a), (b) and (c) and 11.4.2 provide for the addition or alteration of structures, the erection of new structures, the establishment of new plantings on vacant

sites and the removal or demolition of buildings, parts of buildings, stone walls or other structures to be considered via a resource consent process within the nominated heritage precincts. The Council's policy is to waive resource consent fees where such consent is only required because that activity is located within a heritage precinct.

The Council acknowledges that it would be beneficial to have design guidelines for buildings within Heritage Precincts. It is envisaged that such design guidelines would sit outside the Central Otago District Plan Review and would therefore not trigger the need for a resource consent. Such guidelines are intended to assist those wishing to develop in Heritage Precincts and those who are responsible for assessing applications for resource consent to determine the design elements that are appropriate in the context of the Heritage Precinct concerned.

The Council proposes that the existing Heritage Precincts be retained in the Central Otago District Plan Review albeit that some expansion may be appropriate to include nearby properties at Old Cromwell, including the area occupied by the replica heritage buildings on the lakeshore of Lake Dunstan and the McNulty property at Erris Street. Consideration will be given to including parts of Cambrians in a Heritage Precinct; consistent with a recommendation of Heritage New Zealand.

8.3 RURAL HERITAGE AREAS

Within rural parts of the District there are heritage or cultural landscapes that have a strong association with historic activities/archaeological sites. Examples include the Nevis Valley, Sugarloaf, Northburn, Bannockburn, Doctors Point, Bendigo and the Ophir Historic Area (including the Ophir Bridge environs). The Council acknowledges that there may be other areas that could also have such strong associations.

It is proposed that the Central Otago District Plan Review identify "Rural Heritage Areas" that contain these heritage or cultural landscapes. The Rural Heritage Areas would complement the Heritage Precincts which apply in urban areas. It is anticipated that Rural Heritage Areas would be subject to rules that would give particular consideration to the effects of earthworks and other activities that may detract from their heritage or cultural value.

The Council anticipates that members of the public and interested parties will respond at this time to the proposal to identify Rural Heritage Areas in the Central Otago District Plan Review.

9.0 Hazards

Section 31(1)(b)(i) of the Act confirms that a function of territorial authorities is the control of any actual or potential effects of the use, development or protection of land, including for the purpose of the avoidance or mitigation of natural hazards. The current Central Otago District Plan identifies a range of natural hazards and there are rules that control land use accordingly.

9.1 IDENTIFICATION OF HAZARDS ON DISTRICT PLANNING MAPS

Hazards shown on the District Planning Maps of the current Central Otago District Plan are derived from information gathered from a range of sources. In some instances this information has been found to be inaccurate either because the area subject to the hazard has been incorrectly plotted (some Flood prone land) or as the hazard notation refers to an inferred rather than accurately plotted area of hazard (eg. inferred Active Geological Fault).

The accuracy of the existing hazard notations will be assessed as part of the Central Otago District Plan Review. The Council will liaise with the Otago Regional Council to ensure that Flood hazard information is up to date and accurate.

Where hazards cannot be accurately plotted (eg. Inferred Active Geological Faults) they will not be shown on the District Planning maps in the Central Otago District Plan Review.

9.2 HAZARDS REGISTER

The Council will give consideration to the preparation of a hazards register which is a document that does not form part of the Central Otago District Plan Review but which includes data relevant to hazards as shown on the District Planning Maps along with data relating to other potential hazards that cannot be accurately plotted or which have a very long term return period. Such hazards might include liquefaction and mass movement areas. The Council acknowledges that the Otago Regional Council has information with respect to such hazards which the Council anticipates will be incorporated into the hazards register along with relevant information with respect to the estimated return period for any hazard related event.

9.3 HAZARD RULES

The Central Otago District Plan Review will contain rules that control land use activity that involves built development and subdivision on land subject to known hazards. The hazards subject to the rules will be those identified on the planning maps; and the hazard rules will also apply to land that is or is likely to be subject to material damage as a consequence of a hazard. A hazard incorporated into the Hazard Register but not shown on the District Planning Maps will not trigger the need for a resource consent.

It is proposed that any breach of the hazards rule will have status as full discretionary activity in the Central Otago District Plan Review; and not a non-complying activity as the effects of most hazards are able to be avoided, remedied or mitigated through adherence to conditions of consent.

9.4 HAZARDS AND ZONING

The presence of hazards and the implications of such hazards for built development are matters which will be taken into account when zoning decisions are made; particularly when the decision is taken whether to allocate land for urban purposes. The Council acknowledges in this context that research on alluvial fans undertaken by the Otago Regional Council at Roxburgh is likely to have relevance in making decisions with respect to the zoning of additional land for residential purposes at Roxburgh.

9.5 LAKE DUNSTAN SAFELINE

Prior to the filling of Lake Dunstan in the early 1990s the Clutha Valley Development Project identified a safeline to indicate the extent of land that may be subject to instability as a consequence of lake filling. The current Central Otago District Plan identifies this area of potential instability as an Area of Subsidence or Slippage.

The Council is aware that the Lake Dunstan safeline was originally plotted on a conservative basis. The Council has given consideration to applications for land use consent that have been required due to the existence of the Area of Subsidence or Slippage hazard notation. Expert geological advice provided to the Council in the context of such applications has indicated that there is in fact now no realistic subsidence hazard after the 22 year "monitoring phase" following lakefill.

In all the circumstances the Council considers it appropriate to delete the Area of Subsidence or Slippage notation that is derived from the Clutha Valley Development Project safeline; and the safeline will not be used as the basis for a hazard notation in the Central Otago District Plan Review.

9.6 HAZARDOUS SUBSTANCES

Schedule 19.14 of the current Central Otago District Plan contains a Classification of Hazardous Substances and corresponding rules are also contained in the current Central Otago District Plan.

The Council acknowledges that the current provisions were prepared in the mid 1990s and that they now require amendment to better align with the provisions of the Hazardous Substances and New Organisms Act 1996 and current HSNO practice. As a general principle where requirements under the HSNO rules, Regulations, Group Standards, Approved Codes of Practice and Quantity

Thresholds are being met, permitted activity status is likely to be appropriate where such activity occurs outside the urban areas, such as in the Rural Resource Area.

9.7 CLIMATE CHANGE

An effect of climate change may be to increase flood hazard over time. The relevant rules will confirm that an allowance for the effects of climate change should be incorporated into Flood hazard assessments where resource consents are sought for activities on land subject to a flood hazard.

10.0 Other Matters

10.1 SCHEDULED ACTIVITIES

Schedule 19.3 of the current Central Otago District Plan lists scheduled activities and the relevant rules provide for these activities on the sites nominated in that Schedule. Scheduled activities will be maintained in the Central Otago District Plan Review and the Downers Parkburn Quarry will be included as an additional scheduled activity. Schedule 19.3.5 is also to be amended to refer to the Paerau and Patearoa Irrigation and Power Scheme.

It is anticipated that Scheduled Activity status may be promoted for other land use activities in response to this discussion document.

10.2 MISCELLANEOUS AMENDMENTS

Responses to the June 2013 invitation for comments identified other provisions of the current Central Otago District Plan that may require amendment. For example the rule relating to “Temporary Military Training Activities” in Section 12 may require updating. It is also appropriate that the Central Otago District Plan Review acknowledge the New Zealand Fire Service Code of Practice, with detailed provisions to be included in the Council’s engineering standards.

Potential amendments have also been identified during the administration of the current Central Otago District Plan. While significant amendments are specifically discussed elsewhere in this document, miscellaneous amendments of a minor nature will also be incorporated into the Central Otago District Plan Review.

11.0 How to Respond to Discussion Document

The Council welcomes feedback in response to the contents of this discussion document. You are also welcome to raise any other issues that should be addressed during the preparation of the Central Otago District Plan Review.

Submissions are to be in writing and are to be forwarded by mail to:

District Plan Review Discussion Document
Central Otago District Council
PO Box 122
Alexandra 9340
(Attention: S de Jong)

or sent by email to: sed@codc.govt.nz

or by fax to: (03) 448 9196

Submissions in response to this discussion document are to be lodged by **28 November 2014**.

All submitters will have the opportunity to present their submissions in person to the Council's Hearings Panel.

Annex 1 : Those Who Commented in 2013

1. G Adams & M Vizor
2. Alexandra/Clyde and Districts Business Group Inc
3. BTW South
4. Central Otago Environmental Society
5. Cromwell & District Community Trust
6. J Currie
7. Department of Conservation
8. Downer NZ Limited
9. Federated Farmers of New Zealand
10. MJS Floate
11. L & M Group
12. L McLachlan
13. Making A Difference for Central Otago (MAD4CO)
14. Mt Ida Developments Limited
15. New Zealand Defence Force (NSDF)
16. New Zealand Fire Service Commission (NZFS)
17. New Zealand Historic Places Trust (NZHPT)
18. Otago Conservation Board
19. Otago Fish & Game Council
20. Paterson Pitts Group
21. K Paulin
22. Radio New Zealand
23. JCF Rowley
24. Royal Forest and Bird Protection Society
25. Southern District Health Board
26. Transpower New Zealand Limited
27. TrustPower Limited
28. Waitaki District Council

Annex 2 : Matters to be Considered when Preparing a District Plan

Section 74 of the Resource Management Act 1991 identifies matters to be considered by a territorial authority when preparing a District Plan. Section 74(1) states:

- “74 Matters to be considered by territorial authority**
- (i) *A territorial authority must prepare and change its district plan in accordance with-*
 - (a) *its functions under section 31; and*
 - (b) *the provisions of Part 2; and*
 - (c) *a direction given under section 25A(2); and*
 - (d) *its obligation (if any) to prepare an evaluation report in accordance with section 32; and*
 - (e) *its obligation to have particular regard to an evaluation report prepared in accordance with section 32; and*
 - (f) *any regulations.”*

The functions under section 31 are presented in Section 2.1 of this document. Part 2 specifies the purpose and principles of the Act which are as follows:

- “5. Purpose – (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.

6. Matters of national importance – 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.

7. Other matters – 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.

8. Treaty of Waitangi – 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 25A(2) as referred to in section 74(1)(c) relates to a Ministerial direction that is not relevant in this instance.

Clause 5(1)(a) of the First Schedule to the Act requires that a local authority that has prepared a Proposed District Plan must prepare an evaluation report for the Proposed District Plan in accordance with section 32 of the Act and have particular regard to that evaluation report when deciding whether to proceed with the Plan. Section 32 identifies the requirements for preparing and publishing evaluation reports as follows:

“32 Requirements for preparing and publishing evaluation reports

- (1) An evaluation report required under this Act must-

- (a) *examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
 - (b) *examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by-*
 - (i) *identifying other reasonably practicable options for achieving the objectives; and*
 - (ii) *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
 - (iii) *summarising the reasons for deciding on the provisions; and*
 - (c) *contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*
- (2) *An assessment under subsection (1)(b)(ii) must-*
- (a) *identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for-*
 - (i) *economic growth that are anticipated to be provided or reduced; and*
 - (ii) *employment that are anticipated to be provided or reduced; and*
 - (b) *if practicable, quantify the benefits and costs referred to in paragraph (a); and*
 - (c) *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*
- ...”

Section 75(2) provides discretion for a District Plan to state various things. Section 75(2) provides that:

- “(2) *A district plan may state-*
- (b) *the significant resource management issues for the district; and*
 - (c) *the methods, other than rules, for implementing the policies for the district; and*
 - (d) *the principal reasons for adopting the policies and methods; and*
 - (e) *the environmental results expected from the policies and methods; and*
 - (f) *the procedures for monitoring the efficiency and effectiveness of the policies and methods; and*
 - (g) *the processes for dealing with issues that cross territorial authority boundaries; and*
 - (h) *the information to be included with an application for a resource consent; and*
 - (i) *any other information required for the purpose of the territorial authority’s functions, powers, and duties under this Act.”*

The Council will be guided by the current provisions of the Act (included those stated in Section 2.1 of this discussion document and as reproduced above) when preparing a review of the Central Otago District Plan.