

SECTION 1 : STATUTORY BACKGROUND

1.1 INTRODUCTION

1.1.1 Purpose of the District Plan

This is the first District Plan for the Central Otago District prepared under the Resource Management Act 1991 ('the Act'). The purpose of the District Plan is to assist the Council to carry out its functions in order to achieve the purpose of the Act, which is to promote the sustainable management of natural and physical resources (see Section 1.2.2 p.1:7).

To achieve that purpose, Council has been given a number of functions under the Act as follows:

- integrated management of the effects of the use, development, or protection of land and associated natural and physical resources.
- control of any actual or potential effects of the use, development, or protection of land.
- avoidance or mitigation of natural hazards.
- prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances.
- control of subdivision.
- control of the emission of noise.
- control of any actual or potential effects of activities in relation to the surface of water.

In general terms, the District Plan is the means by which the effects of using, developing and protecting the District's natural and physical resources will be managed in the future.

1.1.2 Life of the District Plan

Section 73 of the Act requires that there be a District Plan in place at all times. The Council is obliged to commence a full review of the District Plan no later than ten years after this Plan becomes operative. It is therefore envisaged that this document will be in force for the next decade.

There may be occasions, however, where the District Plan or specific provisions forming part of the Plan will need to be reviewed earlier than the maximum ten years. The following circumstances may affect the contents of this Plan and may necessitate a review of the Plan;

- changes in legislation dealing with resource management.
- improved knowledge and understanding of the environment.
- significant changes in technology and market conditions.
- issues arising from the monitoring of the effectiveness and suitability of the Plan.
- the development of national policy statements, regional policy statements and plans, and reviews of these documents.
- the development and reviews of other resource management plans such as Iwi planning documents, conservation and reserve management plans.
- requests for plan changes by private individuals.

Any review of the plan or change to the plan must be carried out in accordance with the First Schedule to the Act.

1.1.3 District Plan Layout

Section 1 - Statutory Background explains the purpose of the District Plan and outlines the statutory framework upon which it is based. It also describes the planning process under the Act.

Section 2 - The Resources and Significant Resource Management Issues of the District provides a brief overview of the District's resources and the significant issues arising from the effects of their use, development and protection.

Section 3 - Manawhenua deals with the issues of concern to the Kai Tahu ki Otago in the context of the Act and its implementation in the Central Otago District.

Sections 4 to 10 - Rural, Water Surface and Margin, Residential, Business, Industrial and Rural Settlement Resource Areas deal with resource management issues and objectives, policies and methods of implementation particular to the different environments found throughout the District.

Sections 11 to 17 - deal with Heritage Precincts & Items, Infrastructure, Energy, Utilities, Financial Contributions, Subdivision and Hazards and other issues that apply across the District as a whole.

Section 18 - Definitions lists definitions of terms used throughout the District Plan.

Section 19 - Schedules contains information relevant to the Plan and its interpretation and implementation.

Planning Maps are contained in Volume 2 and identify the location of the various Resource Areas, designations and other provisions that form part of the Plan. The extent of various Resource Areas has been determined on the basis of particular environmental characteristics and shared characteristics of each area and in conjunction with comprehensive land use surveys and consultation, particularly in terms of comments received to the consultative draft of the Proposed District Plan.

1.1.4 Relationships with Other Plans and Policy Documents

In preparing and reviewing the District Plan, the Council is required to consider a range of other plans and policy documents of relevance to resource management in the District. Section 55 of the Act requires Council to implement any national policy statement.

The District Plan must not be inconsistent with:

- any national policy statement
- any water conservation order
- the Regional Policy Statement or any Regional Plan

There are no national policy statements that currently have effect within the context of the Central Otago District. Water Conservation Orders apply to the Pomahaka and to the Kawarau River and its tributaries that are located within the District. Council has had regard to the Otago Regional Policy Statement which was not operative when this District Plan was notified.

Section 74 of the Act also requires Council to have regard to:

- (a) any management plan or strategy prepared under other legislation
- (b) relevant planning documents recognised by iwi authorities
- (c) regulations relating to the conservation or management of taipure or fisheries

to the extent to which they have a bearing on resource management issues.

In preparing this District Plan, Council has had regard to:

- Kai Tahu ki Otago Natural Resource Management Plan (1995)
- The Otago Conservation Management Strategy
- Molyneux Park and Pioneer Park Recreation Reserve management plans
- Highway Planning under the Resource Management Act 1991, Transit New Zealand

and a variety of other plans, documents and practice guidelines produced by statutory authorities and industry groups.

1.1.5 Role of Other Agencies

There are a number of other agencies that have responsibilities under the Act or for the management of the Districts natural and physical resources. These are summarised below:

- ***Minister for the Environment***

The Minister for the Environment has a number of statutory functions, powers and duties under the Act. While the role is generally an overview and monitoring one, there are some areas of direct resource management responsibility. (See Part IV of the Act).

- ***Otago Regional Council***

The Otago Regional Council has several important functions under the Act, particularly in respect of land use in the beds and margins of lakes and rivers, discharges to land, air and water, and the taking, use, damming and diversion of water.

These functions are set out in section 30 of the Act which is presented in part at Schedule 19.5 for the convenience of plan users. The Act itself should also be consulted as this section may be subject to change.

- ***Department of Conservation***

The Department of Conservation was established by the Conservation Act 1987, and is given the role of managing the land administered by the Department and other natural and historic resources entrusted to it. The Department also has an advocacy role in respect of the conservation values of areas which it does not manage.

The Department also has direct involvement in the management of natural and physical resources through its duties and functions under the following Acts:

- Wildlife Act 1953
- Fisheries Act 1983
- New Zealand Walkway Act 1990
- Reserves Act 1977
- Wild Animal Control Act 1977
- National Park Act 1980

- ***Otago Fish & Game Council***

The Otago Fish and Game Council is the statutory agency responsible for the management of sports fish (trout and salmon) and gamebirds (water fowl and upland game) in the Central Otago District. The Conservation Act assigns the following functions to the Fish and Game Council:

- * Assessing and monitoring sports fish and game populations, and the condition of ecosystems
- * Maintaining and improving access to the sports fish and game resource
- * Undertaking such works as may be necessary to maintain and enhance the habitat of sports fish and game
- * Promoting and educating on sports fish and game matters
- * Preparing and maintaining sports fish and game management plans
- * Representing the interests and aspirations of anglers and hunters in the statutory planning process.

- ***New Zealand Historic Places Trust***

The New Zealand Historic Places Trust has a role in respect of the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand. The Trust is required to compile and maintain a register of historic places, areas, waahi tapu, and waahi tapu areas, and is to supply this to Council to assist in protection of these areas under the Act.

The Trust also has an advocacy role in respect of heritage issues, and may give Council notice of a requirement for a heritage order where it considers appropriate.

1.1.6 The Treaty of Waitangi

Section 8 of the Act requires that Council take into account the principles of the Treaty of Waitangi when exercising its functions and powers under the Act.

The Treaty of Waitangi is considered the foundation document of New Zealand society as it is today, the basis on which the partnership between Maori and the Crown was established.

The Kai Tahu raketira Karetai and Korako signed the Treaty on behalf of the Otago members of the tribe at Pukekura (Taiaaroa Heads) on 13 June 1840. The Treaty was also signed by Kai Tahu at three other locations in Te Waipounamu : at Akaroa, Ruapuke and Cloudy Bay.

The use of the expression “The principles of the Treaty” is designed to overcome the inherent difficulties of relying upon a literal interpretation of the words of the Treaty. Central to the issue is that the Maori and English texts are not exact translations of one another, and do not convey precisely the same meaning. Both the Courts and the Waitangi Tribunal have expressed the view that in interpreting the principles of the Treaty, the spirit of the Treaty is to be applied, not a literal interpretation of the words.

In the context of the District Plan, the most significant principles are those of “partnership” and the “active protection” of resources important to Maori in accordance with their cultural and spiritual values.

The partnership principle encompasses process duties such as:

- reasonableness and good faith
- obligations to inform and involve Kai Tahu Ki Otago in decision-making, and
- recognition that the Council is not to be unreasonably restricted in forming and implementing policy for public good purposes.

The partnership principle also implies mutuality and balance, and frank communication on matters of mutual interest that leads to decision making that reflects good faith on both sides in promoting common objectives and working to resolve conflicts.

A robust partnership requires an honest and forward-thinking exchange between the parties leading to policies and working arrangements that further both partner’s interests.

Consultation is a crucial element of this working relationship however the principles of the Treaty encompass much more than addressing matters of process.

There must be a reasonable expectation on both sides that proposed policies and programmes will be modified to accommodate issues raised by Kai Tahu Ki Otago through the consultation process to the fullest possible extent, consistent with achieving sustainable management of natural and physical resources.

Sections 6 and 7 of the Act also recognise matters of importance to iwi. The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga are matters of national importance that must be recognised and provided for (section 6(e)). Kaitiakitanga (guardianship) must also be had regard to when managing the use, development, or protection of natural and physical resources (section 7(a)).

Effective implementation of sections 6(e), 7(a) and 8 of the Act can be measured in terms of effective partnership and tangible results including the implementation of policies that achieve environmental, cultural and social outcomes sought by Kai Tahu ki Otago.

To assist in the understanding of the Treaty, the two versions are set out below.

Maori Version of Treaty

Ko te tuatahi

Ko nga Rangatira o te Wakaminenga me nga Rangatira katoa hoki ki hai i uru ki taua Wakaminenga ka tuku rawa atu ki te Kuini o Ingarani ake tonu atu te Kawanatanga katoa o o ratou wenua

Ko te tuarua

Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangatira ki nga Hapu ki nga tangata katoa o Nui Tirani te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa. Otiia ko nga Rangatira o te Wakaminenga me nga Rangatira katoa atu ka tuku ki te Kuini te hokonga o era wahi wenua e pai ai te tangata nona te wenua ki te ritenga o te utu e wakaritea ai e ratou ko te kai hoko e meatia nei e te Kuini hei kai hoko mona

Ko te tuatoru

Hei wakaritenga mai hoki tenei mo te wakaaetanga ki te Kawanatanga o te Kuini. Ka tiakina e te Kuini o Ingarani nga tangata maori katoa o Nui Tirani ka tukua ki a ratou nga tikanga katoa rite tahi ki ana mea ki nga tangata o Ingarani

A literal English translation of the Maori text (NZ Court of Appeal, 29 June 1987, credited to Professor I H Kawharu)

The First

The Chiefs of the Confederation and all the chiefs who have not joined that Confederation give absolutely to the Queen of England for ever the complete government over their land.

The Second

The Queen of England agrees to protect the chiefs, subtribes and all the people of New Zealand in the unqualified exercise of their chieftainship over their lands, villages and all their treasures. But on the other hand the Chiefs of the Confederation and all the chiefs will sell and to the Queen at a price agreed to by the person owning it and by the person buying it (the latter being) appointed by the Queen as her purchase agent.

The Third

For this agreed arrangement therefore concerning the Government of the Queen, the Queen of England will protect all the ordinary people of New Zealand and will give them the same rights and duties of citizenship as the people of England.

Maori version signed by 512 Chiefs and by William Hobson, Consul and Lieutenant Governor.

English Version

Article The First

The chiefs of the Confederation of the United Tribes of New Zealand and the separate and independent Chiefs who have not become members of the Confederation cede to Her Majesty the Queen of England absolutely and without reservation all the rights and powers of Sovereignty which the said Confederation or Individual Chiefs respectively exercise or possess or may be supposed to exercise or to possess over their respective Territories as the sole sovereigns thereof.

Article The Second

Her majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession: but the Chiefs of the United Tribes and the individual Chiefs yield to her Majesty the exclusive right of Preemption over such lands as the proprietors thereof may be disposed to alienate at such prices as may be agreed upon between the respective Proprietors and persons appointed by Her Majesty to treat with them in that behalf.

Article The Third

In consideration thereof Her Majesty the Queen of England extends to the Natives of New Zealand Her Royal protection and imparts to them all the rights and Privileges of British Subjects.

English Text version signed by 30 Chiefs and by William Hobson, Consul and Lieutenant Governor.

Statutory Acknowledgements

Statutory acknowledgements are recorded in the Ngai Tahu Claims Settlement Act 1998 for several water bodies in the District. The statutory acknowledgements are provided for in Part 12 of the Ngai Tahu Claims Settlement Act 1998 and relevant Schedules to that Act (as identified below). Statutory acknowledgements relate to the following –

Kā Moana Haehae (Lake Roxburgh)	:	Schedule 22
Mata-au (Clutha River)	:	Schedule 40
Pomahaka River	:	Schedule 52
Te Wairere (Lake Dunstan)	:	Schedule 61

This information relating to statutory acknowledgements is for the purpose of public information only, and is attached to the Plan pursuant to section 220 of the Ngai Tahu Claims Settlement Act 1998.

1.2 THE RESOURCE MANAGEMENT ACT

1.2.1 The New Era

The Resource Management Act 1991 provides the statutory framework for the preparation of District Plans. This Act replaced or amended the majority of statutes that governed the use and development of resources. Of particular significance to district planning was the replacement of the Town and Country Planning Act 1977 and significant amendments to the Local Government Act 1974.

The Act heralds a new direction for the management of resources. The philosophy of directing and controlling activities evident in the former Town and Country Planning Act has now given way to the promotion of the 'sustainable management' concept which is to be achieved through avoiding, remedying or mitigating the adverse environmental effects of using and developing the natural and physical resources of the District.

The historical techniques of planning, where the emphasis was placed on the control of an **activity**, have been replaced by a requirement under the new legislation to manage the '**effects of an activity**' rather than the activity itself.

Note: The sections of the Act quoted in this plan reflect those existing at the date of public notification. These sections may be changed from time to time and the Act itself should be consulted.

1.2.2 The Purpose and Principles of the Act

Section 5 sets out the Act's purpose which is to promote the sustainable management of natural and physical resources. In the 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."*

In achieving this purpose, the following matters of national importance listed in section 6 of the Act, must be recognised and provide for

- "(a) The preservation of the natural character of ... , 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 ..., lakes, and rivers:*
- (e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga."*

Particular regard must also be had to the following matters set out in Section 7 of the Act:

- “(a) *Kaitiakitanga:*
- (aa) *The ethic of stewardship:*
- (b) *The efficient use and development of natural and physical resources:*
- (c) *The maintenance and enhancement of amenity values:*
- (d) *Intrinsic values of ecosystems:*
- (e) *Recognition and protection of the heritage values of sites, buildings, places, or areas:*
- (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.”*

In addition, the principles of the Treaty of Waitangi must be taken into account (section 8). See also Section 1.1.6 page 1:4 and Note at Section 1.2.1 page 1:7.

It is against this background of the purpose and principles of the Act that the resources of the District and the wellbeing of its people have been assessed to determine the significant resource management issues of the District. The District Plan has been prepared and will be administered in accordance with the purpose and principles of the Act as stated in sections 5-8.

1.2.3 Compliance with the District Plan

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

1.2.4 Existing Use Rights

Sections 10 and 10A of the Act specify the circumstances when the existing use of land and the surface of water is permitted to continue in a manner which contravenes a rule in the District Plan.

1.2.5 Relationship with the Building Act 1991

The Building Act establishes the regulatory framework for the control of building works in respect of public health and safety. However, the issue of a building consent does not relieve the owner of the building of any duty or responsibility under the Resource Management Act, or permit the construction, alteration, demolition or removal of a building or proposed building if that would contravene the Resource Management Act.

1.2.6 Types of Activities

PERMITTED ACTIVITIES are allowed by the Plan without a resource consent, providing they comply in all respects with the conditions specified in the Plan (section 2).

CONTROLLED ACTIVITIES require a resource consent. They shall comply with any standards and terms specified in the Plan and will be assessed according to those matters in the District Plan over which the Council has reserved control. The Council must grant its consent to a controlled activity, but in granting its consent the Council may impose conditions relating to those matters specified (section 105(1)(a) & 3)).

DISCRETIONARY ACTIVITIES require a resource consent and may be subject to standards and terms specified in the Plan. Activities have been afforded such status where they may not be suitable in all locations in a particular resource area; or where the effects of the activity on the environment are so variable that it is not possible to prescribe appropriate standards and terms to cover all circumstances in advance of an application.

Alternatively, activities that may be listed as permitted activities but cannot meet all relevant standards may have status as discretionary activities.

For some activities, Council has restricted the exercise of its discretion to only certain elements of the activity. These activities in this District Plan are called DISCRETIONARY (RESTRICTED) ACTIVITIES.

Discretionary activities can be granted or refused consent and can have conditions attached to any consent. For discretionary (restricted) activities, consent can only be refused and conditions can only be imposed on the basis of the restrictions imposed by this Plan (section 105(1)(b) & (3A)).

NON-COMPLYING ACTIVITIES are those which contravene a rule in the District Plan or are listed as non-complying activities. A resource consent is required for a non-complying activity. Council may grant or refuse consent to a non-complying activity and, if granting consent, may impose conditions (section 105(1)(c) & (2A)).

PROHIBITED ACTIVITIES are activities that the Act allows Plans to expressly prohibit and describe as an activity for which no resource consent shall be granted (section 105(2)(c)).

1.2.7 Resource Consent Procedure

The District Plan provides for two types of resource consent: land use and subdivision. Discharge and water permits are resource consents issued by the Otago Regional Council.

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

- a controlled activity; or
- a discretionary (restricted) activity; or
- a discretionary activity; or
- a non-complying activity

An application for resource consent must be made in accordance with section 88 of the Resource Management Act. Forms for land use and subdivision consent applications are available from the Council offices. Information to be submitted with any application is set out in Schedule 19.1 of this plan and the Resource Consent Process is illustrated in Figure 1.1.

Section 94 of the Resource Management Act sets out the circumstances when applications for resource consent need not be notified. In most situations this will require the written approval of affected persons. The rules of the Plan specify those resource consents which shall be non-notified and those where the written approval of persons affected by the proposal is not needed. Section 94(5) allows Council in special circumstances to require an application to be notified in accordance with section 93 even if the District Plan expressly provides that it not be notified.

A publicly notified application is open to public submissions in accordance with section 96 of the Act.

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

“(1) Subject to Part II, when considering an application for a resource consent and any submissions received, the consent authority shall have regard to -

(a) Any actual and potential effects on the environment of allowing the activity; and

(b) Any relevant regulations; and

(c) Any relevant national policy statement, New Zealand coastal policy statement, regional policy statement, and proposed regional policy statement; and

(cont'd page 1:11)

Figure 1.1 – The Resource Consent Process

- (d) Any relevant objectives, policies, rules or other provisions of a plan or proposed plan;
and
(e) [Not relevant]; and
(f) Any relevant regional plan or proposed regional plan, where an application is made in accordance with a district plan; and
(g) Any relevant water conservation order or draft water conservation order; and
(h) Any relevant designations or heritage orders or relevant requirements for designations or heritage orders; and
(i) Any other matters the consent authority considers relevant and reasonably necessary to determine the application.”

[See Note at Section 1.2.1 page 1:7]

Decisions on applications are made in accordance with section 105 of the Act.

Section 106 specifies circumstances in which the Council shall not grant a subdivision consent. These are:

- (a) Any land or any structure on that land is likely to be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source.
- (b) Any subsequent use that is likely to be made of the land is likely to accelerate, worsen, or result in material damage to that land, other land or structure by erosion, falling debris, subsidence, slippage or inundation from any source.

Notwithstanding these circumstances, the Council may grant a consent if it is satisfied that these effects will be avoided, remedied or mitigated, by a rule in this Plan, any conditions of the consent, and/or any other matter including works.

The Council may impose conditions on consents in accordance with sections 108 and 220 of the Act.

1.2.8 Designations

A designation is a provision made in the District Plan to give effect to a requirement made by a requiring authority. Requirements are made to provide for public works or to impose restrictions necessary for the safe and efficient functioning or operation of a public work.

Every Minister of the Crown and all local authorities have status as a requiring authority. Other network utility operators (as defined in section 166 of the Act) may apply to the Minister for the Environment for approval as a requiring authority. A requiring authority may give notice to the Council in respect of a requirement. Although the Council has called for such notices in preparing the District Plan, the Act makes provision for notices of requirement to be given throughout the life of the operative District Plan.

Designations and requirements for designations are shown on the Planning Maps, with Schedule 19.2 identifying the requiring authority which has the benefit of the designation or requirement. A designation authorises the requiring authority to do anything that is in accordance with the designation and prevents any other person from subdividing or using the land without the ‘prior written consent of the requiring authority’ if this would prevent or hinder the public work or project. The underlying resource area identified in Schedule 19.2 indicates the purpose for which the land may be used other than for the designated works should the requiring authority’s consent be given or the designation removed. Designations do not preclude requiring authorities from complying with any relevant regional rule stated in a regional plan.

Land subject to designations are also subject to underlying resource areas. These are listed in Schedule 19.2 on page 19:7 for each site subject to designation or requirement. The provisions of this Plan (including those that apply in the underlying resource area) apply in relation to any land that is subject to a designation only to the extent that the land is used for a purpose other than the designated purpose. All legal roads have been designated and have been given the underlying resource area of the resource area in which they are located (see Schedule 19.2). A resource area boundary shown following the legal road boundary shall be deemed to follow the centreline of that road for the purposes of determining the underlying resource area.

Designations lapse 5 years after the date on which it is included in the Plan unless it is given effect to or, upon application, Council extends that period on the basis that substantial progress has been made towards giving effect to the designation.

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

1.2.9 Scheduled Activities

The Council has utilised a technique called “scheduling” to provide for some existing or future land use activities which require special recognition and some scope for development but which do not necessarily justify the identification of a special Resource Area. This technique enables activities to go beyond their existing use rights and may, in some circumstances, allow some scope for like activities to locate at the same site. These activities generally retain one or more of the following characteristics:

- they provide an important community facility, service and/or benefit
- they may have a distinctly different character than is normally found in the surrounding environment
- they may have some specific operational requirements that restrict their efficient functioning to particular environments
- they may have been provided for by way of designation or special zoning in previous District Plans and that technique is no longer appropriate and/or available.

The standards applicable to scheduled activities will generally be similar to those applying in the surrounding environment but with some recognition of their unique qualities and/or characteristics. Scheduled activities are listed at Schedule 19.3. It should be noted, however, that scheduled activities are still subject to any relevant regional rules.

1.2.10 Duty to Avoid Unreasonable Noise

Section 16 of the Act imposes a duty on every occupier of land, and every person carrying out an activity in, on, or under a water body to avoid unreasonable noise by adopting the best practicable option (as defined in the Act) to ensure that the emission of noise from that land or water does not exceed a reasonable level.

Where a complaint has been received by Council’s enforcement officer in respect of excessive noise (as defined in the Act) and the enforcement officer, upon investigation, is of the opinion that the noise is excessive, the enforcement officer may direct the occupier, or any other person who appears to be responsible for causing the excessive noise, to immediately reduce the noise to a reasonable level. (See sections 326 to 328.) This power is in addition to the powers to issue abatement notices (sections 322 to 325) and to seek enforcement orders (see section 316, 320).

1.2.11 Duty to Avoid, Remedy or Mitigate Adverse Effects

Section 17 of the Act imposes a duty on every person to avoid, remedy or mitigate any adverse effect on the environment arising from an activity carried on by or on behalf of that person, whether or not the activity is in accordance with a rule in a plan, a resource consent, or is an existing use pursuant to sections 10 or 10A.

Pursuant to Part XII of the Act a person may be required to stop doing anything that is, or is likely to be noxious, dangerous, offensive or objectionable to such an extent that it has or is likely to have an adverse effect on the environment **OR** do something that is considered necessary to avoid, remedy or mitigate any actual or likely adverse effect on the environment. (See sections 314 to 325B of the Act).

1.2.12 Monitoring and Review

Section 35 of the Act requires the Council to gather information and undertake research as is necessary to effectively carry out its functions under the Act. This section also requires Council to monitor:

- (a) the state of the whole or any part of the environment of the district to the extent that is appropriate to enable the Council to effectively carry out its functions under the Act; and
- (b) the suitability and effectiveness of any plan for the district; and
- (c) the exercise of any functions, powers, or duties delegated or transferred by the Council; and
- (d) the exercise of the resource consents that have effect in the district.

The Council must then take appropriate action (having regard to the methods available under the Act) where monitoring shows this to be necessary.

Monitoring provides important feedback and information, and is therefore an important mechanism in enabling the Council to fulfil its responsibilities for the review and/or refinement of the District Plan. It is in effect the process of information collection and recording. This includes gathering information and maintaining records in respect of resource management matters and the state of the environment, and compliance with resource consents granted by the Council.

With the wide range of issues, objectives and policies relating to resource management in the District, the scope for gathering and analysing information is almost endless. However, the Council's financial, staffing and time constraints mean that priorities need to be set for monitoring. Monitoring needs to be targeted at:

- issues which are of most concern to the community;
- objectives and policies which are closely related to the ability of future generations to meet their needs and matters of national importance identified in section 6 of the Act;
- issues, objectives and policies which are new or altered from the transitional District Plans and where the effectiveness of methods to achieve such objectives and policies is less certain; and
- environmental results which provide clear and certain indicators.

For each Section of the District Plan that contains issues, objectives and policies, a set of "Environmental Results Anticipated" has been specified. These "results" will form the basis for the monitoring specified below, targeted according to the above priorities.

The annual monitoring programme will be specified each year in the Annual Plan. Changes in funding available, work priorities and particular circumstances will influence the specific nature of the monitoring programme each year. On-going analysis of monitoring data collected will also enable an assessment of the nature of the monitoring being undertaken to determine whether it is providing appropriate information to assess the achievement of the Plan's objectives and policies.

Monitoring will be undertaken through several different procedures:

1. **Council Records:** The Council is required under the Act to keep and monitor information collected through its regulatory and other responsibilities, such as resource and building consents and a register of complaints received. Analysis of these will provide information regarding development within the District and attitudes to any adverse effects of that development. Monitoring of compliance with resource consent conditions will assist in assessing the adequacy and appropriateness of Plan policies and rules.
2. **Statistics New Zealand and Valuation Information:** The Council will continue to obtain updated data from these and other important sources of demographic, building, agriculture and business information.
3. **Surveys:** Every 3-5 years the Council may conduct a survey of the District's community regarding its attitudes towards particular resource management issues, such as landscape values and residential amenity.
4. **Annual Planning Process:** The District's Annual Planning Process provides the opportunity for the public to comment on the draft annual plan each year. Comments from this process are sometimes relevant to resource management issues, which can be included within the District Plan. The Council will also establish a separate programme to monitor the state of the environment generally (section 35). Information for this programme will help identify new or changing issues of relevance to the District Plan, and trends between the state and health of the environment and land use activities.

5. **Regional Council Monitoring Programme:** The Otago Regional Council undertakes a comprehensive monitoring programme in relation to its own areas of responsibility. Many of these are of relevance to the Council's District Plan, such as ground and surface water quality and availability, soil erosion and soil health, vegetation cover, air quality and flooding risks. The Regional Council's Annual Monitoring Report provides an important source of information. The Council will continue to liaise with the Otago Regional Council regarding the mutual benefits of monitoring the environment.
6. **Liaison with Other Councils:** Other Districts share many of the same resource management issues as the Central Otago District. The Council will seek to encourage liaison and co-operation between Councils of other Districts, and where possible pool resources to undertake particular jointly-funded monitoring and research. The Ministry for the Environment has an important role to play in collecting and disseminating information gathered from local authorities throughout New Zealand.
7. **Scientific Organisations:** The Council will maintain liaison with scientific organisations, particularly those undertaking research relating to resource management issues in the high country. The Council will encourage research organisations to undertake relevant monitoring and research investigations; and will continue to monitor the outcomes of such research.
8. **Landholders:** In many instances, the most effective monitoring can be undertaken by landholders themselves, such as the monitoring of climate, vegetation, and soil condition. The Council will take an active role in encouraging landholder groups undertaking their own monitoring and in facilitating the provision of information regarding monitoring techniques to such groups. Large organisations owning land and/or facilities within the District are also likely to be undertaking their own environmental monitoring programmes. The Council will seek a co-operative approach with these organisations where information can be usefully integrated into the Council's own monitoring programme.

1.2.13 Duty to Consider Alternatives

Section 32 of the Act imposes a duty on the Council before adopting any objective, policy, rule or method to have regard to alternatives, evaluate benefits and costs and be satisfied that the provision is necessary in achieving the purpose of the Act, and is the most appropriate means of exercising the functions having regard to its efficiency and effectiveness relative to other means.

The Council produced a document entitled "Section 32 Record of Action During Preparation of the Central Otago District Plan" that was publicly available at the time of public notification of the Proposed Plan. That document was prepared in terms of section 32(4) of the Resource Management Act 1991 which requires that a record be prepared, in such form as the Council considers appropriate, of the action taken and documentation prepared in the discharge of duties under section 32 of the Act. The record of action document provides a description of six distinct phases in the section 32 process which has involved a progressive and wide ranging consultation process. The reasons/explanations for selecting particular options are generally well documented in the Plan and alternatives are also discussed.

The Council also notes that section 32(2)(c) imposes a duty on the Council to consider alternatives, to assess benefits and costs, and so forth, at the time when decisions are made on the Proposed District Plan in terms of Clause 10 of the First Schedule to the Act. This action has also been taken.

1.3 CROSS BOUNDARY ISSUES

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

Territorial authorities that adjoin the Central Otago District are as follows;

- Clutha District Council
- Dunedin City Council
- Queenstown-Lakes District Council
- Southland District Council
- Waitaki District Council

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

- Land use activities (including uses on the surface of rivers and lakes) and development strategies which may give rise to adverse environmental effects in a neighbouring district.
- Roading and transportation matters, drainage systems, water catchments and supply schemes, and other utility services which start in one district and cross over into another district or districts.
- Resource consent matters which may impinge on two or more districts.

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

- Notification of adjoining territorial authorities that may be affected
- Protocols with respect to joint processing of resource consent applications
- Pre-hearing meetings pursuant to section 99 of the Act between applicants/developers, submitters, and relevant territorial authorities
- Promote and participate in joint hearings pursuant to section 102 of the Act.
- Undertake regular consultation with all agencies having responsibility for the sustainable management of the District's environment and to promote and encourage protocols and mechanisms to address and resolve cross boundary issues where they arise.

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

Cross boundary issues may also arise with Regional Councils. In the context of the Central Otago District, the Otago Regional Council is the relevant regional council. However, cross boundary issues may also arise with the Canterbury and Southland Regional Council's that administer regions that adjoin the District's northern and southern boundaries.

Such issues could include the following;

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

The processes used to deal with cross boundary issues between Council and the three relevant Regional Councils, are set out in the relevant Regional Policy Statements and Regional Plans, and the Council will have regard to these documents.