

***SECTION 2***

***STATUTORY BACKGROUND***

## **2.1 THE RESOURCE MANAGEMENT ACT**

The Resource Management Act 1991 heralds a new direction for the management of the resources of the District. The philosophy of direction and control of activities evident in the former Town and Country Planning Act has now given way to the promotion of the concept of sustainable management through the allocation of physical resources in public ownership and through limiting adverse environmental effects of the use of natural and physical resources.

This approach, together with greater emphasis on accountability, transparency and performance in local government in general and in the field of resource management, offers Council the opportunity for greater flexibility and innovation to set and achieve goals to secure a high standard of environment quality throughout the District.

### **THE DISTRICT PLAN**

This Plan has been prepared with particular regard to the concept of sustainable management and the new regime of local government administration in New Zealand.

In accordance with the requirements of the Act the District Plan identifies significant resource issues, states policies and objectives and explains them. The District Plan also sets out the reasons for adopting the policies and objectives, the means of implementation and the environmental results anticipated from such implementation.

The District Plan is concerned with the “effects” of development and activities, not the actual development or activity itself.

The District Plan must be read in conjunction with the Resource Management Act 1991. No attempt has been made in the Plan to set out large parts of the Act or to discuss the philosophies and purposes it contains.

### **Volume One**

#### **The District Plan**

which embodies

- the background to the resources of the District
- the objectives, policies and rules to control effects
- the issues affecting the District.

### **Volume Two**

#### **The Planning Maps**

- which diagrammatically illustrate various issues addressed in the plan
- identify the hazards affecting various localities.

### **PREPARATION PROCESS AND SECTION 32**

The District Plan has been prepared after extensive consultation with individual organisations and the general public at large. Council has met with numerous affected parties and has released a series of discussion papers aimed at identifying the resource management issues facing the Southland District and the most appropriate options available to deal with those issues.

These consultations, discussion papers and subsequent submissions, form the basis of Council’s consideration of the Plan’s contents in terms of Section 32 of the Act. This resource material is available in the Council’s offices at Invercargill for inspection.

## 2.2 THE PLANNING PROCESS

### (i) STRUCTURE OF THE DISTRICT PLAN

The District Plan is required to contain an integrated statement to assist Council to achieve the sustainable management of the natural and physical resources of the Southland District.

This District Plan comprises seven main parts.

Section 1: Sets out a brief summary of the resources of the District upon which the provisions of this District Plan are based and highlights the major issues affecting the sustainability of those resources.

Section 2: Identifies the statutory process of which the District Plan is but a part, and sets out the procedures necessary to obtain resource consent for various types of activities identified in the plan.

Section 3: Deals with the General Provisions which have application over the whole of the District and sets out the Objectives, Policies, Rules or Methods to control effects of activities.

Section 4: Provides Objectives, Policies, Rules or Methods for the specific activity RESOURCE AREAS which are identified in the Plan.

Section 5: Is the definition section which explains some of the words which are used consistently throughout the District Plan.

Section 6: Is the schedules dealing with specific technical issues addressed throughout the Plan.

Section 7: Contains the Planning Maps. These show the physical distribution and location of the different activity areas, special landscape character areas, designated land, reserves, historic buildings and sites, stands of indigenous trees and selected trees, hazard areas and formed and unformed roads.

### (ii) COMPLIANCE WITH THE DISTRICT PLAN

The Act requires that no person may use any land in a manner which contravenes a rule in the District Plan. There are however, exceptions for uses which existed before this Plan was made operative. The provisions of Sections 9 and 10 and 10A of the Act deals with these exceptions. The Council must also comply with this Plan.

The Council, as part of its duties, is required to gather information, monitor, and maintain records on resource management matters.

In particular the Council will monitor compliance with resource consents and be vigilant in investigating reports and complaints of activities which have started without a consent which should have been obtained and/or are creating adverse effects on the environment. (See Rule 1.3.2)

### (iii) TYPES OF ACTIVITIES

Activities are classified into five groups. These are:

PERMITTED	which do not require a resource consent
CONTROLLED DISCRETIONARY NON-COMPLYING	} which require a resource consent and which may or may not require public notification
PROHIBITED	for which no resource consent shall be granted

(a) **PERMITTED ACTIVITIES** must comply in all respects with any conditions specified in the Plan.

The site performance rules in the Plan specify the performance standards in all RESOURCE AREAS, with which an activity must comply eg minimum site areas for particular land uses, building heights and set-backs from boundaries, noise restrictions, parking requirements and access to sites.

An activity which does not comply with one or more of the relevant rules for site performance standard is a controlled, discretionary or non-complying activity in respect of that standard as may be specified in that Rule.

Some activities are permitted activities throughout the District subject to the specific rules of the RESOURCE AREA in which they are located. They include minor earthworks, some network utility services, underground pipe networks for water supply and sewage disposal, small electricity substations and low voltage electricity lines.

(b) **CONTROLLED ACTIVITIES** Council will grant consent subject to conditions over matters referred to in the Rules. This process is to avoid remedy or mitigate any adverse effects of the activity on the environment.

- (c) **DISCRETIONARY ACTIVITIES**  
Some activities because of their scale, location, intensity, or operational characteristics also require to be assessed for compliance with site performance standards and are listed as discretionary activities in the Rules for the RESOURCE AREA. Where Council has in this Plan restricted the exercise of its discretion, conditions will be imposed in respect of those matters specified only.  
These are referred to as RESTRICTED DISCRETIONARY ACTIVITIES.
- (d) **NON-COMPLYING ACTIVITIES**  
Consent will be required when activities do not comply with the Rules for site performance and have not been provided for as controlled or discretionary activities.
- (e) **PROHIBITED ACTIVITIES**  
The Plan expressly prohibits certain activities and describes them as activities for which no resource consent shall be granted. No resource consent application will be accepted for consideration.

**(iv) INFORMATION TO BE SUBMITTED**

**Objective**

- **To enable Council to make clear decisions on resource allocation and environmental issues.**

**Explanation**

*As a consent granting authority, Council is publicly accountable for its decisions. Decision-making based on informed knowledge will inevitably result in better decisions.*

**POLICY APP.1**

**To require that technical information and the Assessment of Environmental Effects on the Environment (in terms of Section 88 and the Fourth Schedule of the Act) that must accompany all resource consent applications, requirement notices pursuant to Sections 168 and 189 of the Resource Management Act, and proposed Plan changes, be sufficient, clear, concise, and relevant.**

**Explanation**

*Resource consent applications, proposals for requirements, and Plan changes can involve complex environmental, cultural, and socio-economic issues. Technical information is required to document the various aspects of the resource use on these environments.*

*The manner in which the technical information is written and presented will also assist in the democratic process of decision-making. The manner in which the technical information is presented can assist in reducing uncertainties and improve understanding by those who are likely to be affected by a resource consent application. Moreover, if the technical information is clearly and concisely presented, Council should not have difficulty using information on which decisions are made.*

*Furthermore, Section 88 of the Act requires that an assessment of any actual or potential effects of an activity accompany any application for resource consent.*

*(Refer Rule APP.1, 2 and 3, Method APP.1 Schedule 6.16)*

**METHOD APP.1**

The method chosen in achieving the objective and policies of this Section of the District Plan is to scrutinise all information accompanying resource consent applications before processing the application.

**RULE APP.1**

All resource consent applications, notice of requirements pursuant to Sections 168 and 189 of the Act, and proposals for Plan changes shall be accompanied by relevant and detailed information.

**Reason**

*Sound decision-making requires the inclusion of information relevant to the application and in a form which is readily understood.*

**RULE APP.2**

The applicant or the person submitting a proposal which is publicly notified shall permit a sign to be placed on the site indicating the proposal. The sign is to be placed on the site before or on the day of public notification of the proposal in accordance with the Act and Regulations. It is not to be removed before the closing date of submissions. The sign remains the property of Council

**Reason**

*This rule implements the requirements of the legislation to clearly identify on the ground the location of planning application.*

**RULE APP.3**

All applications are to be supported by the information contained in Schedule 6.16.

**Reason**

*Many applications are accompanied by inadequate information which makes processing costly and time consuming.*

*Schedule 6.16 sets out the minimum information which Council believes will assist applicants in understanding what is required.*

**(v) CHANGES TO THE DISTRICT PLAN**

Any person may request Council to change the District Plan in terms of Part II of the First Schedule of the Act. Such a request shall be in writing and shall explain the purpose of and the reasons for the proposed Plan change, a description of any effects anticipated, and consultation undertaken.

Council will either adopt the change as its own; treat the proposed change as a resource consent; or reject the request in whole or in part; in terms of Clause 25 of the First Schedule of the Act. The person who requested such a change will be liable for the costs of preparing, processing and implementing the change or a reasonable share of the costs as Council sees fit.

**(vi) APPLICATION OF RULES AND METHODS THROUGHOUT THE PLAN**

In order to avoid repetition throughout the Plan the Objectives, Policies, Methods and Rules that are established under Section 3 are applicable where relevant to the Resource Areas defined in Section 4.

## 2.3 MONITORING AND REVIEW OF PLAN

### 2.3.1 - COUNCIL'S MONITORING DUTIES

Section 35 of the Act imposes a duty on Council to gather information, monitor, and keep records. The duty to monitor involves monitoring on four levels -

- The state of the environment of the District
- The effectiveness of the Plan
- Any function, power or duty transferred or delegated to it.
- The exercise of resource consents.

The long term monitoring of the state of the environment is often called "base line" monitoring - providing the base information on the health and state of the environment. Information gained from this type of monitoring acts as a base for assessing changes or trends in the environment either as the result of natural processes or human actions. The main components assessed at this level are water and air quality, water quantity, and land condition.

Base line monitoring will not only be undertaken by Council but also by the Regional Council and other organisations such as Government Departments and Crown Research Institutes and the Southland Fish and Game Council.

As the provisions of the Plan are aimed at maintaining or enhancing the environmental quality, regular monitoring of the base resources will provide an objective assessment of the Plan's success in achieving its stated outcomes.

Compliance monitoring is also an essential part of the monitoring equation. Compliance monitoring assesses whether the policies, rules and resource conditions are being implemented and given effect to. Monitoring the exercise of resource consents will be undertaken either by Council itself or by the applicants through an appropriate self-monitoring condition. Such monitoring is necessary to ensure consent conditions are being followed and that the exercise of the consent is not having an adverse effect on the environment.

### 2.3.2 - THE ISSUES

The following are considered to be significant resource management issues related to monitoring within the Southland District.

- **The assessment of the District's environment requires that environmental variables are being monitored.**

#### Explanation

*To provide enough information on which to assess the state of the District's environment, there is a need to collect information on a variety of environmental variables.*

- **The need to review the suitability and effectiveness of the policies contained within the District Plan.**

#### Explanation

*Monitoring the outcomes of the policies within the Plan will be required to ensure that they are suitable and effective, ensuring the integrated and sustainable management of the District's natural and physical resources.*

- **There are difficulties in assessing the cumulative effects of resource consents within the District.**

#### Explanation

*Local authorities issue different types of resource consents such as land use consents (for the use of land) and subdivision consent (for the subdivision of land). Conditions are typically included in a resource consent to minimise any adverse effects associated with the use permitted.*

*As well as monitoring the effects of a single activity, monitoring will also need to consider the combined effects of all activities within the environment. This is more difficult to assess and is often overlooked. Over time the cumulative effect of all activities may have an adverse effect on the environment which may not have been predicted in the consideration of individual consents.*

- **Effective monitoring requires accurate, reliable and comparable data to be collected.**

#### Explanation

*A variety of environmental data has been collected over past years by a variety of agencies and groups. In many cases, data that had been collected on the same environmental parameter is not comparable because of different techniques that have been used or because insufficient scientific testing has been applied to its collection and analysis.*

### **2.3.3 - OBJECTIVES AND POLICIES**

The following are Council's objectives and policies in terms of its monitoring duties.

#### **Objective MON.1**

To provide accurate and reliable data in conjunction with other relevant authorities on the state of the environment in the Southland District.

#### **Objective MON.2**

To determine whether the policies and methods of the District Plan are effectively achieving the anticipated outcomes.

#### **Policy MON.1**

To complement the monitoring work already undertaken by other relevant authorities on the state of the environment in the Southland District.

#### **Explanation**

*Monitoring is required in order to better understand the District's environment.*

*Because change in many variables can occur gradually over a long timescale, there is a need to continue monitoring of variables on an ongoing and continuous basis.*

*One-off or short term monitoring is inadequate for identifying longer term changes.  
(Refer Methods MON.1-4)*

#### **Policy MON.2**

To determine whether the policies and methods of the District Plan are effectively achieving the anticipated environmental results.  
(Refer Method MON.1)

#### **Policy MON.3**

To review District Plan policies in response to changes in community attitudes.

#### **Explanation**

*The anticipated environmental results of the Plan's policies will be monitored to determine the extent to which the results are achieved.*

*Where it becomes obvious that current policies are not having the desired result, these policies will be reviewed and amended to bring about improved environmental condition.  
(Refer Method MON.1-4)*

#### **Policy MON.4**

To require that data for monitoring purposes is collected and analysed in a scientifically defensible manner.

#### **Explanation**

*In many cases, for the data to be of value, it must be of a standard capable of withstanding scientific scrutiny both in the manner in which it is collected and the way in which it is analysed.  
(Refer Method MON.2)*

### **2.3.4 - METHODS**

To achieve these objectives and policies Council proposes to develop a monitoring strategy in conjunction with Southland's other territorial authorities, the Regional Council, various Government departments (for example the Department of Conservation), and other organisations that have a resource management role in the District. This approach will reduce the burden on any one group enabling each organisation to work in it to its particular strength while providing an efficient monitoring framework for the District.

As identified in Section 2.3.1 it is the intention in monitoring the environment of the District to determine the suitability and effectiveness of this Plan. The following techniques may be used -

#### **Method MON.1 - Environment of the District**

- Where appropriate, participate in joint initiatives with other local authorities, Government departments and other agencies to monitor key aspects of the District's environment.
- Commission research as it becomes necessary to provide additional information on the "state of the environment".
- To release a "state of the environment report" for the Southland District each year.

### **Method MON.2 - Base Line Data**

- Maintain a database and analyse approvals for resource consents for subdivision and building.
- Compliance monitoring to ensure that conditions of resource consent are being adhered to and the performance standards of permitted activities are being complied with.

### **Method MON.3 - Self-Monitoring**

- Require self-monitoring of consents where considered appropriate and necessary.

### **Method MON.4 - Register of Complaints**

- To maintain a register of complaints received.
- Analysis of feedback, compliments and complaints received.
- Where appropriate, to develop specific monitoring techniques for each resource issue contained within this Plan.

### **2.3.5 - ANTICIPATED ENVIRONMENTAL RESULTS**

- (a) An improved understanding of the District's natural and physical environment.
- (b) Evidence of changes in environmental conditions and monitor these over time.
- (c) Information is available to identify when it is necessary to review policies and plans.
- (d) Policies and Plan are reviewed in response to changes in community attitudes towards environmental management.

### **2.3.6 - REVIEW OF THE PLAN**

The District Plan is a long term planning document which is required to be reviewed not later than 10 years after it becomes operative.

## **2.4 CROSS BOUNDARY ISSUES**

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

### **2.4.1 - THE ISSUES**

Issues which may arise include:

- Land use activities [including uses on the surface of rivers] and development strategies which may give rise to adverse environmental effects in a neighbouring jurisdiction.
- Roading and transportation matters, drainage systems and utility services which start in one jurisdiction and cross over into other jurisdictions.
- Resource consent matters primarily the concern of the Regional Council which may impinge on two or more territorial authority districts.
- The maintenance and enhancement of public water supply in the District.

In considering these issues, the Council will be guided by the contents of the Regional Policy Statement and any regional plan, and the broad objectives and strategies of this plan, and will consider the District Plan of neighbouring territorial local authorities.

The Council will consider significant resource management issues arising in the district of an adjacent local authority which affect the district. In appropriate cases, submissions will be prepared and lodged with that local authority in relation to such issues.

Where the Council receives an application for a land use consent which is to be notified and the activity may give rise to adverse environmental effects in a neighbouring jurisdiction, land owners in that jurisdiction and the appropriate local authority will be notified.

The Council will, where appropriate, participate in joint hearings with other territorial councils as provided for by Section 102 of the Act.

### **2.4.2 - METHODS**

In order to establish an appropriate forum for the discussion of cross boundary issues, it is the Council's intention to convene a meeting of two separate groups to debate and resolve cross boundary issues.

- (a) To convene a meeting of Council representatives from Invercargill City Council, Gore District Council, Clutha District Council, Central Otago District Council and the Department of Conservation to discuss cross boundary issues that are relevant to resource management. It would be the intention that this group would meet not less than once every year.
- (b) To continue a Planning Liaison Committee comprising staff of the Department of Conservation, Southern Health, the Southland Regional Council and staff representatives from the adjoining local authorities and local iwi.

This Committee is to be convened as and when required to address cross boundary issues relative to resource management of appropriate local authorities.

