

Annexure G

Relevant Provisions of the Statutory Planning Documents

Section 104 (1) (b)

1 Relevant Provisions of the Partially Operative Waitaki District Plan

With a proposed project of this size a substantial number of provisions are relevant. In approaching this task, I first examine the provisions that apply to the Rural General Zone and the associated Cement Policy Area. I collectively review the proposed mining operations (Landuse Consents LRC07/08b, c and d) against the Rural General Zone provisions and then review the proposed cement manufacturing operation (Land Consent LRC07/08a) against the provisions. I then examine both the proposed mining operations and the proposed cement manufacturing operation against the provisions that apply to the district as a whole.

1.1 Rural General Zone Provisions – Mineral Extraction and Mining

1.1.1 The objective, policy and methods of most relevance¹ and hence importance are contained under **Issue 6** (Mineral Extraction) of the Rural Issues, Objectives and Policies section of the Proposed District Plan (page 132) and under the rules for the Rural General Zone (page 197).

1.1.2 Issue 6 deals with mineral extraction. It acknowledges that access to those minerals is an important industry but it can also have the potential to adversely affect the rural amenity and environment. Objective 6 states the following:

“16.7.1 Objective 6

Extractive industries are given the ability to access minerals but in a way that avoids, remedies or mitigates adverse effects on the environment.”

1.1.3 The policies in summary:

- i. Acknowledge the importance of minerals and discourage activities that could compromise access to such minerals (**Policy 1**)

¹ Issue 5 (Commercial and Industrial Development) (page 131) and the associated provisions are of relevance to mining. Objective 5 anticipates the establishment of commercial, industrial, service, recreational and accommodation activities that are compatible with the amenities of the lower density rural environment. However, mining is not referred to and instead is addressed under Issue 6.

- ii. Control extraction to assess their effects against the receiving environment and the degree to which an operation will avoid, remedy or mitigate adverse effects on rural amenities and the environment (**Policy 2**).
 - iii. Provide a mining zone at Macraes Flats while ensuring adverse effects are avoided, remedied or mitigated (**Policy 3**).
 - iv. Ensure post-mining rehabilitation appropriate to the area (**Policy 4**).
 - v. Encourage extractive industries to continue in existing locations (**Policy 5**).
- 1.1.4 Apart from ensuring post-mining rehabilitation is completed, the policies seek that adverse effects are avoided, remedied or mitigated.

1.1.5 Turning to the Implementation Methods under 16.7.3:

“1 The provision of rules to control extractive operations and mineral exploration and the provision of performance standards to protect the environment and amenity of rural areas.

2 The recognition of known and important mineral deposits through the provision of a Macraes Mining Zone and a Whitstone cement extraction policy area.²”

1.1.6 Following Method 1, mining is listed as a (full) discretionary activity in the Rural General and Rural Scenic Zone (4.3.3 (4), page 32). Mineral prospecting and mineral exploration are also defined in the District Plan and are a permitted activity (Rule 4.3.1 (7) and a controlled activity (Rule 4.3.2 (2) respectively in the Rural Zone (pages 189 & 200). Therefore the mining of sand at Windsor and the coal at Ngapara are a listed discretionary activity.

1.1.7 Mining is defined in the District Plan as follows:

“means the use of land and buildings for the primary purpose of the extraction, winning, quarrying, excavation, taking and associated processing of minerals and any ancillary activity related to mining but does not include prospecting and exploration.”

1.1.8 The rules are somewhat complicated by a new rule that permits ‘mineral extraction and processing’ subject to a number of pre-conditions (Rule 4.3.1 (12), page 199). The term ‘mineral extraction and processing’ is not defined in the

² Reference to the Macraes Mining Zone in this method stems from Policy 3 although no such policy direction exists for the Cement Policy Area.

District Plan although it fits within the definition of mining. As I understand, the intention of this rule is to enable gravel extraction and processing to continue in areas that had been periodically used in the past. This is reflected partly in reference to gravel in pre-conditions (d) and (e). There are also further difficulties with the rule because the status of mineral extraction and processing, failing to comply the pre-conditions, is not specified.

- 1.1.9 Following on from method 2 above, and of particular relevance to the Holcim proposal, is rule 4.3.2 (3) which lists the extraction of limestone and tuff (mining) and the manufacturing of cement as a controlled activity i.e.

“Extraction of limestone and tuff (mining) and the manufacturing of cement only in the Cement Policy Area (refer Planning Maps 22 and 26),

- a) *The Council has reserved control over the following matters:*
- i) terrain disturbance including vegetation clearance, and volumes of material to be removed;*
 - ii) impact on nature conservation, historic and cultural values;*
 - iii) rehabilitation of a site;*
 - iv) siting of roads or any buildings;*
 - v) noise, vibration and dust;*
 - vi) impacts on landscapes and high class soils³.*”

- 1.1.10 For completion, I record mining as a permitted activity in the Macraes Mining Zone although the excavation and construction of pits, pit margins, waste rock stacks, embankments, tailings impoundments and any other dams, roads and tracks associated with mining is a restricted discretionary activity under Rule 6.3.2 with discretionary activity being restricted to rehabilitation, landscaping, stability matters, historic matters and so on.

- 1.1.11 The assessment matter specified for mining activities is to consider:

“xxv Mining Activities and Gravel Extraction - Rural Zones

- a) The extent to which the activities of vegetation clearance and the excavation and removal of material associated with mining impact on amenity values, landscapes values and natural conservation values. (refer to relevant Assessment Matters).*
- b) The extent to which roads or buildings impact on amenity values, landscape values and natural conservation values. (refer to relevant Assessment Matter).*
- c) The ability of the proposal to rehabilitate the site after mining so:*
 - i) that the long term stability of the site is ensured;*

³ Clause (vi) was introduced as part of a Consent Order after an Appeal on the Proposed District Plan

- ii) *that the landforms or vegetation on finished areas are visually integrated into the landscape;*
- iii) *that the land is returned to its original productive capacity where appropriate;*
- iv) *that water and soil values are protected.*
- d) *The ability of operation to minimise dust, noise, lighting and vibration so that amenity or natural conservation values are not at risk.*
- e) *The ability of the company to provide a contingency plan for early mine closure, including an evaluation of the risk to the neighbouring community and environment.*
- f) *The ability of the company to provide a bond to the Council annually for the purpose of rehabilitating operation areas in the event of a premature closure.*
- g) *The ability of the company to adequately monitor the operations and its effects on the receiving environment.*

1.1.12 To summarise, the general thrust of these provisions is to:

- i recognise that the mineral extraction industry is important to the district and access to known mineral deposits should be protected;
- ii. recognise that mining involves not only the extraction of minerals but also the processing of same;
- iii. anticipate extractive industries in the Rural Zones provided that the effects are avoided, remedied or mitigated. This is reflected in mining being listed as a discretionary activity;
- iv. recognise that the Whitstone Cement Policy Area contains known and important mineral deposits, and accordingly the District Plan has promulgated a specific rule to enable the extraction and processing of such minerals.

1.1.13 This means that whether the proposed mining operations near Windsor and Ngapara are consistent with these policies depends on whether the adverse effects can be satisfactorily avoided remedied or mitigated, including final rehabilitation of the mine sites.

1.1.14 At Weston however the District Plan has identified a Cement Policy Area that recognises and provides for mining as a controlled activity at the Weston site. This means that the District Plan considers the site inherently suitable for the extraction activities proposed subject to the necessary conditions of consent.

1.1.15 While the mining of sand for the cement manufacturing process and the mining for coal to fuel the cement kiln is listed as a full discretionary activity, it is reasonable to place some weight on the fact that these mineral deposits serve the

extraction and processing operation which is anticipated by the Cement Policy Area.

- 1.1.16 However, a number of performance standards are relevant and also need to be considered. These performance standards have been promulgated under **Issue 7** (Landscapes) and **Issue 8** (Nature Conservation Values) or more generally under **Issue 4** (Protecting Rural Amenity).
- 1.1.17 The performance standards need to be put in context. First, the standards are discussed in the introduction to the District Plan (page 6). In summary, the introduction states that the site development standards are considered important in achieving a satisfactory environmental standard in the immediate vicinity of an activity, but while important, they are not considered fundamental to the integrity of an area and hence a discretionary status applies to any non-compliance of these standards.
- 1.1.18 Critical Zone Standards, on the other hand, are stated as being fundamental to the environmental standard or character for a zone or area and these standards often relate to matters which can have widespread or cumulative effects on the wider zone or area and because of their importance, all activities which fail to meet these standards are non-complying activities.
- 1.1.19 As discussed previously, the mining at Windsor and Ngapara is listed as a discretionary activity. Listed discretionary activities are not subject to the site development standards or critical zone standards. The reason for this can also be found in the introductory chapter (Section 1.8.3) where it states that discretionary activities have been afforded such status where there is potential that they may not be suitable in all locations in a zone; or where the effects of the activity on its environment are so variable that it is not possible to prescribe appropriate standards and terms to cover all circumstances in advance of an application.
- 1.1.20 Controlled activities, on the other hand, and as a result of Council decisions on submissions, are now, like permitted activities, subject to the site development and critical zone standards. This means that the proposed mining operations within the Cement Policy at Weston are subject to a number of site developments standards which are shown on Table 1 of Annexure F.
- 1.1.21 In addition, the proposed mining (and the proposed Cement Plant) within the Cement Policy Area is now subject to the critical zone standard 4.5.1 (page 206) which deals with noise⁴.
- 1.1.22 This standard has been introduced under Issue 4, Objective 4, Policy 3 and the associated method. Policy 3 states that performances standards are set for

⁴ The decision on submissions to make controlled activities subject to the site development and critical zone standards has, in this instance, resulted in an overlap, because the Council also reserves control over noise in the controlled activity rule (refer to paragraph 1.1.9).

activities that may cause unpleasant living or working conditions or that could cause a significant adverse effect to the environment; whereas, Implementation Method 1 is somewhat more directive in that it states that performance standards have been provided so as to protect the amenity and environmental quality of the Rural Zones.

- 1.1.23 At the time of writing this report, a declaration has been sought by the Waiareka Preservation Society Inc., that the proposed activities may well not comply with the noise levels set out for the standard and therefore the landuse activities are a non-complying activity. This report proceeds on the basis that the applicant Holcim can achieve the noise levels, as stated by Marshall Day Acoustics, and confirmed by Hegley Acoustic Consultants (refer to **Annexure K**).
- 1.1.24 Site Development Standards 4.4.7 (2) and (3) (page 204) control both earthworks and the clearance of indigenous vegetation within 20m of a margin of a stream or wetland, or within a wetland. This performance stems from the objectives and policies under Issue 8 (Nature Conservation Values) and in particular Policies 7 and 10 that seek to manage the effects of development on the natural character of wetlands and margins of streams and so follows the requirements under Section 6 (a) of the Act. According to the ecology report prepared by Boffa Miskell Ltd, the riparian and wetland vegetation to be removed has little ecological value and would in fact benefit from the proposed enhancement plantings, consisting of flax, raupo, and *Carex secta* in both the Bobbing Creek catchment at Ngapara and at Troublesome Gully at Weston.
- 1.1.25 Site Development Standard 4.4.8 (as introduced by Variation 3) controls the clearance of indigenous vegetation and Clause (3) states that there shall be no clearance of any indigenous vegetation associated with limestone crops. According to the ecology report prepared by Boffa Miskell Ltd, this rule is triggered by the proposed removal of two approximately 8 metre tall broadleaf trees and one mahoe as well as scattered shrubs of *Coprosma propinqua* due to proposed mining of the north-eastern end of the Whitstone escarpment (refer to the aerial photograph in **Annexure A** at the end of the recommended conditions of consent).
- 1.1.26 This performance standard stems from the objectives and policies under issue 8 (Nature Conservation Values) and in particular Policies 2, 3 and 4 (page 142). The patch in question is not considered by the Boffa Miskell Ltd's ecologists to be significant. Assuming their conclusion is correct, Policies 2 and 3 are not relevant and nor does it appear that Policy 4 is relevant because the patch does not provide any functional or habitat role.
- 1.1.27 The identification of Whitstone Escarpment as a Significant Natural Feature (SNF) under Variation and Plan Change 2 means that the construction of buildings, earthworks, and again the clearance of indigenous vegetation do not comply with Site Development Standards 4.4.7 (1), (2) and (3). This is because

the proposed limestone quarry would encroach into the northerly part of the SNF (refer again Annexure E).

1.1.28 The performance standard stems from Issue 7, Objective 7 and Policies 6 and 7. Policy 6 states:

“6 To ensure that those characteristics leading to the identification of an outstanding or significant natural feature are protected.”

1.1.29 The relevant assessment matters for a significant natural feature are as follows:

“xxv For activities located in the following area of the Rural Zone shown on the Planning Maps:

- *Outstanding or significant natural features.....*
 - a) *The extent to which the activity will cause:*
 - i) *the loss of key views or viewpoints;*
 - ii) *the loss of accessibility to key views or viewpoints;*
 - iii) *any obscuring of landforms or natural features;*
 - iv) *the loss of the natural landscape pattern; including the loss of underlying landform pattern;*
 - v) *the loss or obscuring of present vegetation patterns;*
 - vi) *the loss of openness and spaciousness of the landscape, and the apparent naturalness of the landscape.*
 - b) *The extent to which the activity is in accordance with this Plan and in particular those policies listed under Chapter 16, Issue 7, Landscape Objective 16.8.2.*
 - c) *The extent to which the activity is in accordance with the landscape guidelines in Appendix D to this District Plan.”*

1.1.30 The assessment matters for mining generally, as set out in paragraph 1.1.11 above, also refer back to the above assessment matters.

1.1.31 In addition to Policy 6 and the assessment matters, Policy 7 provides further guidance on proposed earthworks:

“7 To achieve the outcomes in Policies 2 to 6 above, the following policies on subdivision, use or development are to apply:

- f) *Earthworks are encouraged to be located away from visually sensitive areas, and where practicable towards the edges of the landform and vegetation patterns;*

- g) *Earthworks should not compromise any rare or distinctive geological outcrops or any other values associated with an identified outstanding or significant natural feature;*
- h) *Earthworks, where possible, should be restored and finished to a contour sympathetic to the surrounding physiography and should also be revegetated with a cover appropriate to the site and setting.”*

1.1.32 The weight placed on the SNF and the associated policies needs to be considered in the context of the District Plan identifying the Cement Policy Area and providing for the proposed cement plant as a controlled activity. Second, the applicant has submissions on Variation 2 and Plan Change 2, to delete the SNF at this location and to amend Policy 6.

1.1.33 The effects of the proposed mining activities on landscape character and the visual amenity are discussed in the report by Mr Densem (Annexure X), however I briefly comment on two other standards that capture the proposed mining:

- i. Performance standard 4.4.7 (2) (d) controls earthworks occurring on slopes over 20 degrees (page 204). It is not entirely clear under which issue this rule has been promulgated but I assume it is in order to manage landscapes. The slopes up at the northern nose of the escarpment exceed 20 degrees and therefore the quarrying triggers this standard. No additional evaluation is needed because of this standard.
- ii. The proposed engineered landforms (elfs) at Ngapara and the overburden stockpiles at Weston are assessed as ‘buildings’ under the District Plan and therefore the 10m height restriction on buildings (Rule 4.4.2) applies. However, I consider little guidance can be taken from this standard, given that elfs and stockpiles are fundamentally different in character and on their effects on the environment, from what is understood as a ‘building’ in the traditional sense.

1.2 Rural General Zone Provisions – Cement Manufacturing

1.2.1 The objective and policies under Issue 6, discussed earlier, must also be relevant to the proposed cement plant for the following two reasons:

- i. It would be processing the minerals extracted from the adjacent limestone and tuff quarries and the sand quarry at Windsor and is therefore part of the mineral extractive industry;

- ii. The proposed site is located within the Cement Policy Area which is specifically recognised under Implementation Method 16.7.3 (2) and also under the associated explanation to the Policies of Issue 6.
- 1.2.2 However, it is noteworthy that there are no policies under Issue 6 that refer specifically to the Cement Policy Area. Furthermore, the controlled activity rule specifically separates out mineral extraction from the manufacturing of cement, and cement manufacturing has its own definition, as follows:
- “means the manufacture of ordinary, rapid hardening, modified cement, the manufacture of calcium oxide and calcium hydrate, and associated activities such as the packaging, storage and loading of finished products within buildings, and also administrative offices, workshops, laboratories and staff facilities.”*
- 1.2.3 Therefore I believe it is reasonable to consider that the provisions under Issue 5 (Business Development in Rural Area) are also relevant. The policies for business development in rural areas (page 131) in summary:
- i. Enable small-scale businesses to establish in rural areas – providing adverse effects are avoided, remedied or mitigated (**Policy 3**);
 - ii. Enable business activities requiring a rural location to establish (in terms of scale, effluent disposal requirements, use of or relationship to rural resources) where no reasonable alternatives exist for their location within established settlements (**Policy 2**);
 - iii. Control the establishment of other business activities:
 - a) So that they are consolidated into established settlements in order to manage and contain their effects on the rural environment (**Policy 1**);
 - b) So that a clear distinction between the settlements and the rural areas is maintained in order to assist in protecting the character and quality of the rural areas (**Policy 4**);
 - c) So there is no loss of rural amenity (**Policy 5**).
- 1.2.4 There is in my view a tension between Policies 2 and 5, because Policy 2 *enables* the establishment of large-scale industrial activities in the rural areas should no reasonable alternative exist within the established settlements, while Policy 5 states that, in considering any applications for business activities, there is a need to ensure there is no loss of rural amenity. By virtue of scale, it would often be difficult to ensure there is no loss of rural amenity, as required by Policy 5. The proposed cement manufacturing plant is a case in point. By virtue of its scale it needs a rural location as well as needing a close relationship with the adjacent proposed quarry which is to supply the majority of the raw material to the cement

plant. On the other hand, it is clear that there will be a loss of amenity, particularly in close proximity to the proposed plant. In this instance, I believe Policy 3 takes priority because the District Plan has identified a Cement Policy Area, with a Cement Manufacturing sub-area, which recognises and provides for cement manufacturing as a controlled activity.

- 1.2.5 The provisions under **Issue 4** (Protecting Rural Amenity) are again relevant to the extent that Critical Zone Standard 4.5.1 provides guidance on the expected noise levels for the Rural Zone.
- 1.2.6 The proposed cement plant is not located within the Significant Natural Feature (SNF) and therefore those controls specified under Site Development 4.4.7 do not apply. Nevertheless, the question remains whether Policy 6 is relevant to the SNF. Policy 6 is categorical in that it seeks to ensure that those characteristics leading to the identification of an outstanding or significant natural feature are protected. Although, as Mr Densem points out, there is leeway in that the features themselves do not need to be protected, rather it is the characteristics giving rise to the features.
- 1.2.7 In detail, the question is whether the policy only applies to activities altering the feature itself (such as the quarrying on the other side) or whether it extends to activities that may affect people as they view the feature i.e. its visual amenity. I believe it is the latter for two reasons. Firstly, the Concise Oxford Dictionary defines the word ‘characteristic’ as meaning amongst other things a “*distinctive (trait, make, quality).*” Therefore, it is not only the physical feature that gives rise to its characteristics but also its qualities.
- 1.28 Secondly, the report by Mr Densem notes that the Whitstone Escarpment, along with nine other limestone features, is identified in the District Plan because of its natural and aesthetic values. Thus any activity does not necessarily have to be located within and directly alter a SNF for the qualities or aesthetics of the SNF to be compromised. Therefore, I conclude that the proposed cement plant because of its location and scale should be considered against Policy 6.
- 1.2.9 Nevertheless, in coming to this conclusion, I again note that the weight applied to Policy 6 is affected by the fact that there is the inherent tension between the District Plan identifying the Cement Policy Area and providing for the proposed cement plant as a controlled activity, and also the applicant having submitted on Variation 2 and Plan Change 2 with the intention of deleting the SNF at this location and amending Policy 6.

1.3 Transport

- 1.3.1 There are two district-wide transport issues identified in the District Plan. Objective 1, under Issue 1 (Transport Efficiency), promotes the safe and efficient use of the district’s future transportation resource and fossil fuel use through the

maintenance and improvement of access and the ease and safety of all vehicular, cycle and pedestrian movements (page 51).

1.3.2 The policies and the associated site development standards are concerned with appropriate design parking and accesses for a particular zone rather than addressing traffic generation from an individual proposal that could affect the safety of efficiency of the wider transportation network away from a site.

1.3.2 The assessment by the applicant is that all site development standards can be complied with other than that relating to the number of required on-site carparks. In this instance, the site could accommodate the required number of carparks specified in the District Plan for the proposed activity; however, the actual number of vehicles anticipated to use the site is far less.

1.3.3 Issue 2 addresses the environment effects of transport in terms of visual amenity, privacy, and impact from noise and exhaust (page 52). The outcome for Objective 2 is to avoid or mitigate adverse effects on the surrounding environment as a result of transport. To achieve this objective Policies 1 and 2 have been introduced:

“1 To protect the amenities of specified areas, particularly residential and pedestrian orientated town centres from the adverse effects of transportation activities.

2 To discourage traffic in areas where it would have significant adverse environmental effects.”

1.3.4 Again, the implementation methods and performance standards address this issue by means of developing zoning patterns appropriate to the roading hierarchies, and also parking and access standards. The environment effects of traffic noise is however addressed in the Traffic Design Group Report prepared for the applicant and also discussed by Mr Hegley (Refer Annexure x).

1.4 Culture and Heritage

1.4.1 The District Plan contains policies on both takata whenua values and heritage values. The policies recognise that the Treaty of Waitangi provides a foundation document for relationships between Council and Kai Tahu (Policy 1) and Kāi Tahu Whanui has manawhenua of all land within the district, and recognises that Te Runanga o Moeraki exercises this manawhenua from the Waitaki River south to the Waihemo (Shag River) (Policy 2). Policy 4 is particularly relevant to this proposal as it recognises Te Runanga o Moeraki as the appropriate body to determine management strategies (including interpretation) for all rock art within the District (page 13).

1.4.2 Objective B and the associated policies are also relevant in that they seek to recognise and protect the values attached to waahi tapu, waahi taoka and the cultural

property of iwi, and to recognise Kai Tahu as managers of manage waahi tapu and waahi taoka in a manner consistent with traditional practices (page 14).

- 1.4.3 The outcome for Objective A under the heritage policies (page 19) is also relevant as it seeks the conservation and enhancement of the heritage values of the District, including historic places and areas, waahi tapu sites and areas and archaeological sites, in order that the character and history of the District can be preserved and managed.
- 1.4.4 Policy 2 seeks to ensure that through the implementation of appropriate procedures within the Council's administration, all development and building proposals in the vicinity of recorded waahi tapu and archaeological sites are notified to the takata whenua and to the N.Z. Historic Places Trust, in accordance with the Historic Places Act 1993, in order to enable the implementation of the archaeological provisions of that Act.
- 1.4.5 This policy is not entirely clear but suggests that where the Council understands that a development may be in the vicinity of recorded archaeological sites then both the takata whenua and the NZ Historic Places Trust should be notified.
- 1.4.6 The applicant has commissioned various reports on these matters, which are contained in the AEE, which have been commissioned in consultation with Te Runanga o Moeraki and the New Zealand Historic Places Trust.
- 1.4.7 The rest of the policies and the associated methods focus on heritage items which are identified in Appendix B of the District Plan. To my knowledge there are no District Plan heritage items being modified by this proposal.

1.5 Recreation

- 1.5.1 The loss of the railway corridor for walking and cycling has been identified as an issue. Policy 3 under Issue 1 of the Open Space and Recreation Policies (page 27) is relevant i.e.:

“3 To require contributions towards the provision and upgrading of public open space or recreation facilities (including streetscapes) from:

- i) subdivision; and/or,*
- ii) development for residential and business purposes, visitor accommodation, commercial, service, mining, recreational, community and industrial activities; and/or to use the cash contributions towards:*
 - the purchase of land for public recreation areas and facilities, including parks and sports fields or,*
 - the upgrading of existing public recreation areas and facilities, including parks and sports fields and streetscapes;*

and to take land instead of a cash contribution towards providing public open space and recreation areas, including parks and sports fields, from subdivision and development, where this will effectively add to the quality and diversity of open spaces and recreation areas in the District.”

- 1.5.2 The provision of funding of an alternative walkway/cycleway option could, along with other funding options, be at least partly funded from the financial contributions which can be taken under this policy. I understand that the issue of financial contributions is a matter that the Council and the applicant are working on.

1.6 Hazardous Substances

- 1.6.1 The District Plan controls the quantities of hazardous substances to be used and/or stored in the district. It contains a number of performance standards on containment in particular. The rules stem from an objective that again focuses on ensuring the adverse effects arising from storage, manufacture, transportation and disposal of hazardous substances are avoided or mitigated. Policies 1 and 2 (page 82) are the most relevant:

“1 To avoid, remedy or mitigate any adverse effect on the environment caused by accidental spillages of hazardous substances, during the use;

2 To avoid or mitigate the potential for adverse effects to the environment from the use of land for the manufacture, storage, disposal and use of hazardous substances; while recognising that the quantities of hazardous substances, which are acceptable in different areas of the District, will vary depending on the proximity of residential use, on community expectation and the sensitivity of the surrounding environment.”

- 1.6.2 Therefore whether the use, storage, manufacture or disposal of hazardous substances is appropriate will depend on the nature of the receiving environment. The use or storage of hazardous substances in the Rural Zone exceeding the specified quantities in Table 1 (page 313), apart from large underground petroleum tanks, is assessed as a discretionary activity and therefore an assessment of location suitability is important. In addition, proposals need to demonstrate ensure that there are procedures in place to deal with any accidental spillages.

1.7 Energy

- 1.7.1 The District Plan contains an objective and associated policies directed towards the conservation and efficient use of energy within the Waitaki District (page 43). Interestingly, Policy 8 encourages the retention of the remaining areas of indigenous forest vegetation within the district, and the removal of unnecessary

restrictions on forestry other than avoiding, remedying or mitigating adverse effects on the environment. The explanation notes that forests may be important ‘sinks’ which trap and breakdown greenhouse gases.

- 1.7.2 The methods are limited to rules that ensure residential units obtain maximum sun, and the use of zoning to ensure compact urban and peri-urban forms (page 45). These methods are not relevant to the Holcim proposal.

1.8 Natural Hazards

- 1.8.1 The District Plan seeks to avoid loss of life or damage to assets from natural hazards (page 39). The Otago Regional Council s42A report is addressing pit stability issues and any associated natural hazards. I understand that this is not an issue with this proposal.

1.9 Utilities

- 1.9.1 Objective 1 and the associated policies in the utilities section of the District Plan (page 74) seek to avoid remedy or mitigate the adverse effects of utility structures through the separation of incompatible activities and also through maintaining visual amenity and safety and the quality of the environment. The construction of a proposed waste water treatment building (Membrane Bioreactor plant) would be in order of 20m². In the context of the Holcim proposal it would not be a noticeable feature.

1.20 High Class Soils

- 1.20.1 Issue 3 for rural areas concerns the retention of high class soils. It appears from the planning maps that a small portion of high class soils will be lost to the limestone/siltstone quarry operation. The landscape architects from Boffa Miskell Ltd are proposing that the base of the pit be rehabilitated so it can be used for pasture grass, although there is no discussion on whether it can be returned to its original productive capacity.

2 Relevant Provisions of the Transitional Waitaki District Plan (Waitaki Country Scheme)

- 2.1 General Policy for the rural area recognises that the area has a number of economic, social and cultural functions and it needs to provide for these functions in the most suitable locations (page 19). Section 4.7 addresses mining and quarrying. The first paragraph specifically mentions the original proposal by Cement Holdings Ltd, noting that the locality is particularly suitable for a cement works because of the presence of a good quantity and quality of limestone (and tuff), and is in close proximity to coal and well as to a sea port.

- 2.2 It further states that matters of public interest ‘limit’ some aspects of the operation, particularly where regard must be had to the reinstatement of good soils, as well as pollution and noise (page 24).
- 2.3 Policy (a) recognises mining and quarrying as a conditional use (discretionary activity) unless application is required under the former Mining or Coal Mines Act. Policy (b) sets out a number of matters that should have regard to:
- i. Restoration of sites;
 - ii. Location, provision and maintenance of access;
 - iii. Signs;
 - iv. The reduction of objectionable elements such as noise, dust, vibration, glare, air and water pollution;
 - v. Protection of land needed for urban expansion;
 - vi. Protection of land with high actual or potential value for food production.
- 2.4 Section 11 (A) of the Plan sets out the rules for the Cement Works Zone – Manufacturing Area (page 104). The rules permit the cement plant and the associated facilities. There are no performance standards setting production limits although Rule 11(A).5 does attempt to deal with any change in the methods of production or in the manufacture of products i.e.:
- (a) Any change in methods of production (Appendix H) or manufacture of the products set out in this zone (Ordinance 11 (A).3), which will change the character and/or intensity of and effects created by the process, which in the opinion of the Council, is noticeable beyond the boundaries of the zone.*
- 2.5 Appendix H describes the dry process technology, mentioning a four stage pre-heater tower. This is what is still being proposed for today.
- 2.6 There were a number of ‘special conditions’ under clause 11(A).6 introduced on landscaping and restoration, noise, lighting and wash-down of vehicles which in summary:
- i. Required vegetation to be established and the buildings to be finished in appropriate colours;
 - ii. Required land to be restored to its former value for production purposes
 - iii. Require a bond in the event that the landscaping or restoration was not established or maintained;
 - iv. Set noise controls similar to that in the Partially Operative District Plan although the nighttime levels are for 45dBA L₁₀ rather than 40 dBA L₁₀ proposed in the Critical Zone Standard 4.5.1 for the Rural General Zone;
 - v. There is also a general (unenforceable) standard on lighting, requiring lighting to be designed and placed so as not to create a nuisance to occupiers of dwellings or to motorists;

- vi. Required wash-down of vehicles provided it causes no nuisance to adjoining properties.
- 2.7 The rules specifically mention no height restriction, although buildings are not to continuously shade Tokorahi (Weston-Ngapara) Road. The yard ‘set back’ rules are not entirely clear but it appears that all buildings must be set back 50m from the front and side yards although this may be reduced to 20m provided that the height of the building is no greater than the reduced distance nominated.
- 2.8 Section 11 (B) of the Plan sets out the rules for the Cement Works Zone – Extraction Area. The rules permit the extraction of lime and tuff and any other component related to the manufacture of cement together with the transportation of such materials (page 109). The performance standards on landscaping and land restoration, including the provision for bonds, is the same, although interestingly the noise provisions are more relaxed, with 55dBA applying to background levels (L₉₅) with L₁₀ levels at 65dBA.
- 2.9 The mining of coal and sand is permitted under the rules for the Rural B Zone subject to four performance standards (page 79). Again, the noise standards mirror those for the ‘Cement Works – Zone Extraction Area,’ as does the standards on restoration. There is however another (again unenforceable) standard which generally states that all land is to be maintained in such a manner as will preserve or enhance the amenities of the locality but really focuses on the requirement for plantings to screen buildings and operations from neighbouring dwellings. Buildings are also to be of a limited size.
- 2.10 To summarise, the general thrust of these provisions recognises and provides for the proposed cement manufacturing plant and associated extraction activities. Importantly, the provisions clearly anticipate a project of a similar scale to that which is being proposed by the applicant.

3.0 **Regional Policy Statement For Otago**

- 3.1 The Regional Policy for Otago is in my opinion not a particularly relevant document for the landuse consents assessed under this report. This is because:
 - i. In my reading of the document, the policies are generalised and are addressed in more detail in the District Plan;
 - ii. There are no obvious inconsistencies between these policies and those in the District Plan;
 - iii. The chapters relating to water and air are issues being addressed by the s42a report being prepared by the Otago Regional Council.

- 3.2 It is notable however that in the chapter on land (pages 48-61), the RPS recognises that mineral deposits are a finite resource and consideration needs to be given to preserve access to such deposits i.e.

“Issue 5.3.7 Access to minerals resources may be compromised through the inappropriate location of other development activities above or in close proximity to the mineral resource.

Explanation:

Minerals are an important resource for the people and communities of Otago in providing for their present and future well-being, both through the direct economic benefits derived from the extraction of gold and other minerals, and through the use of substances such as aggregates, shingle and coal for roading, building and fuel uses. However, unlike other activities which may have a range of locations in which they can be undertaken, minerals are fixed, and therefore the extraction of minerals for use and development is also fixed. Mineral resources can only be utilised in the location in which they are found and their future use and development can be compromised by the location of other land developments.

Objective 5.4.5 To promote the sustainable management of Otago’s mineral resources in order to meet the present and reasonably foreseeable needs of Otago’s community

Policy 5.5.8 To recognise known mineral deposits and to consider the potential for access to those mineral resources to be compromised or removed by other alternative land development”

- 3.3 This policy is also consistent with Policy 5.5.4 and the explanation which states:

“Policy 5.5.4 To promote the diversification and use of Otago’s land resource to achieve sustainable landuse and management systems for future generations.

Explanation:

While the existing primary productive use of Otago’s land resource is an important component of Otago’s economy, promoting and encouraging a diversification of use will assist in the development of sustainable systems to ensure that the needs of future generations are met.”

- 3.4 There are however also policies on landuse avoiding, remedying or mitigating adverse effects on soils and water i.e.:

“Objective 5.4.2 To avoid, remedy or mitigate degradation of Otago’s natural and physical resources resulting from activities utilising the land resource.

Policy 5.5.3 To maintain and enhance Otago’s land resource through avoiding, remedying or mitigating the adverse effects of activities which have the potential to, among other adverse effects:

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

Policy 5.5.5 To minimise the adverse effects of landuse activities on the quality and quantity of Otago’s water through promoting and encouraging the:

- (c) Avoiding, remedying or mitigating the degradation of groundwater and surface water caused by the introduction of contaminants in the form of chemicals, nutrients and sediments resulting from landuse activities.”*

3.5 To conclude, the policies in my view are quite generalised and provide no further direction beyond that contained in the District Plan. Whether the Holcim proposal is consistent with Policies 5.5.3 or 5.5.5 for example turns on facts and evidence, although it is also clear that the activities proposed are not precluded by the above policies.