

Part I

Introduction



1.1 Purpose of this Plan

This Plan is to be known as the Regional Plan: Air for Otago. It has been prepared in order to promote the sustainable management of the air resource in Otago and thereby assist the Otago Regional Council to carry out its functions under the Resource Management Act.

1.2 The need for this Plan

The functions of the Otago Regional Council under the Resource Management Act 1991 include air quality management.

Section 65 of the Resource Management Act enables the Otago Regional Council to prepare a regional plan in respect of any function for which it is responsible. Section 65(3) states that regional councils shall consider the desirability of preparing a regional plan whenever the following circumstances arise or are likely to arise:

- (h) any use of land or water that has actual or potential adverse effects on soil conservation or air quality or water quality;*
- (i) any other significant issue relating to any function of the regional council under this Act.*

Consultation during the preparation of this Plan has highlighted the potential for some land uses to adversely affect air quality, and in particular to create problems of dust, odour and agrichemical spray drift. Degradation of ambient air quality has also been identified in the Regional Policy Statement for Otago as an issue of significance in the Otago region.

After consultation, and having regard to the purpose of the Resource Management Act, other methods available, and after having carried out an evaluation of the likely benefits and costs of the principal alternative means, the Otago Regional Council has decided that this Plan is the best method for:

- Establishing a long term and integrated strategy for efficiently managing Otago's air resource; and
- Maintaining and enhancing Otago's existing air quality as directed by the Regional Policy Statement for Otago.

1.3 Area covered by this Plan

This Plan applies to the whole of the Otago region, including Otago's coastal marine area which extends 12 nautical miles (22.2 kilometres) from mean high water springs. The Otago Region was constituted under the "*Local Government (Otago Region) Reorganisation Order 1989*" and is shown in Figure 1. The region comprises the districts of the:

- Dunedin City Council;
- Central Otago District Council;
- Clutha District Council;
- Queenstown-Lakes District Council; and
- Waitaki District Council (part only).



Figure 1: The Otago Region

1.4 Plan preparation process

This Plan has been prepared following a process in accordance with the requirements of the First Schedule to the Resource Management Act.

A discussion paper entitled “*Air Quality Discussion Paper*” was released in May 1996 and a total of 224 submissions were received.

This Plan was publicly notified on 28 February 1998. There were 261 submissions and 47 further submissions received. The decisions were released on 30 June 2001 and, after some appeals had been resolved, the Regional Plan: Air was made operative on 1 January 2003.

This Plan was changed by Plan Change 1, proposed on 17 December 2005 and made operative on 10 April 2006 following the receipt of no submissions. That introduced Rule 16.3.13.2 in place of Rule 16.3.13.1(7) and made several consequential changes.

This Plan was amended by Plan Change 2, proposed on 14 April 2007 and made operative on 1 January 2009 following the receipt of 840 submissions and 44 further

submissions. The amendments related to ambient air quality, and introduced new rules regarding discharges from domestic heating appliances.

1.5 Structure of this Plan

The structure of this Plan is based on the requirements for a regional plan as set out in Section 67(1) of the Resource Management Act. The Plan is divided into eight parts.

Part I (this part) outlines the purpose of the Plan, the area it covers and the plan preparation process. Part I also details the legislative framework for air quality management, how integrated management is to be achieved and outlines the perspective of Kai Tahu, Otago's manawhenua, to air.

Part II outlines the main air quality issues in Otago.

Part III outlines the approach adopted in this Plan for the management of air quality within the Otago region. Firstly, overall objectives for air quality management are defined. Secondly, policies for addressing the issues identified in Part II are stated. These policies set out the general direction that the Council will take, and establish criteria to guide the Council's decision making on resource consent applications.

Part IV sets out the rules which apply for the discharge of contaminants into air in Otago. It also specifies the type of information that will be required with any resource consent application. This part of the Plan is particularly important as it sets out situations where consents are required for the discharge of contaminants to air.

Part V outlines the methods other than rules which will be used to achieve the Plan's objectives.

Part VI states the environmental results anticipated from the implementation of the policies and methods (including rules) in this Plan.

Part VII sets out the methods the Otago Regional Council may use when effects of discharges into air cross district or regional boundaries.

Part VIII sets out the processes to be used for monitoring and reviewing this Plan.

Although this Plan is structured into discrete parts, these parts should not be viewed in isolation as the Plan needs to be read as a whole. This Plan uses a system of cross-referencing to provide linkage between parts, and issues, objectives, policies and methods. Within this system:

- Each of the issues is referenced through to the relevant objectives and policies within Part III of the Plan;
- Each of the objectives is referenced through to the relevant policies; and
- Each of the policies is referenced through to the relevant rules in Part IV, and other methods in Part V.

This cross-reference system is for information purposes, to aid understanding of the integrated nature of the Plan and to assist users to read the Plan as a whole by highlighting potential links between related provisions.

2 Legislative and policy framework

2.1 The Resource Management Act 1991

The Resource Management Act provides the statutory framework for managing air quality, for controlling the actual or potential effects of land use activities on the environment (including air) and for controlling discharges into air.

Section 30 of the Resource Management Act allocates regional councils the principal role for the management of air quality. Regional councils are the consent authorities for activities that would otherwise breach Section 15 of the Act. Section 15 restricts the discharge of contaminants into air, as follows:

- “15. *Discharge of contaminants into environment-*
- (1) *No person may discharge any -*
 - (a) *Contaminant or water into water; or*
 - (b) *Contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; or*
 - (c) *Contaminant from any industrial or trade premises into air; or*
 - (d) *Contaminant from any industrial or trade premises onto or into land - unless the discharge is expressly allowed by a rule in a regional plan and in any relevant proposed regional plan, a resource consent, or regulations.*
 - (2) *No person may discharge any contaminant into the air, or into or onto land, from -*
 - (a) *Any place; or*
 - (b) *Any other source, whether moveable or not, - in a manner that contravenes a rule in a regional plan or proposed regional plan unless the discharge is expressly allowed by a resource consent, or regulations, or allowed by Section 20 (certain existing lawful activities allowed).”*

Section 15(1) means that any discharge of a contaminant into air from any industrial or trade premises in Otago is allowed only if it is expressly authorised by a permitted activity rule in this Plan, a resource consent or by regulations. Under Section 15(2) the opposite presumption applies to discharges into air from any other source. That is, unless there is a relevant rule, discharges from sources other than industrial or trade premises can take place without a resource consent from the regional council.

Without this Plan, discharges of contaminants into air from industrial or trade premises, no matter how minor, require resource consents, while significant discharges from other sources do not.

A key function of this Plan is to allow minor discharges into air from industrial and trade premises which are unlikely to have any significant adverse effects, and to regulate other discharges which may have significant adverse effects.

Air quality can also be affected by the use of land and by discharges into air or to land from that use. Section 31 of the Act allocates a role to city and district councils in terms of controlling any actual or potential effects of land use on the environment (including

air). District plans may therefore contain provisions regulating land use to manage air quality. Such provisions must not be inconsistent with this Plan.

Under Section 43 of the Resource Management Act, the Government can issue national environmental standards. The Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Regulations 2004 (NESAQ) applied nationally from 8 October 2004. The NESAQ have:

- Seven standards banning activities that discharge significant quantities of dioxins and other toxics into the air;
- Five standards for ambient (outdoor) air quality;
- A design standard for newly installed woodburners installed in buildings on properties less than 2 hectares in size; and
- A requirement for landfills over 1 million tonnes of refuse to collect greenhouse gas emissions.

Every regional, city and district council is required to enforce these standards.

Rules in this Plan and resource consents granted under this Plan cannot be more lenient than the requirements of the NESAQ, however in some circumstances they can impose more stringent standards, and may provide for matters not specified by the NESAQ. Existing resource consents to discharge contaminants to air prevail over the requirements of the NESAQ until a review of the consent (under Section 128(1)(ba) of the Resource Management Act) has been made to ensure consistency with the NESAQ.

2.2 Relationship to other resource management documents

This Plan only addresses the effects of discharges of contaminants into air. This means that any person discharging contaminants into air may also need to comply with or be consistent with:

- The Regional Policy Statement for Otago;
- Other regional plans prepared by the Otago Regional Council; and
- District plans prepared by the relevant city or district council. In Otago the relevant district council will be one of the following depending on the location of the activity: Dunedin City Council; Waitaki District Council; Central Otago District Council; Queenstown-Lakes District Council; or Clutha District Council.

In terms of the Otago Regional Council's own Regional Policy Statement and regional plans, the activity or operation will need to comply or be consistent with the provisions of the following documents:

- **Regional Policy Statement for Otago** (Operative 1998) - The Regional Policy Statement provides an overview of the resource management issues of Otago. It also provides policies and methods for achieving integrated management of the region's natural and physical resources. In the Regional Policy Statement air is recognised as a resource of regional significance. The objectives, policies and methods of the Regional Policy Statement have been taken into account in the development of this Plan.
- **Regional Plan: Waste for Otago** (Operative 1997) - This plan deals with solid waste management. It contains rules which require consents to be obtained for activities involving discharges of contaminants into air at contaminated sites, landfills (including farm landfills, clean-fill landfills, greenwaste landfills and offal pits) and composting and silage production.

- **Regional Plan: Coast for Otago** (Operative 2001) - This plan covers the coastal marine area of Otago which extends from the line of mean high water springs out to the 12 nautical mile limit. The plan contains rules which deal with the following: public access and occupation of space; structures; alteration of the foreshore and seabed; discharges; taking, use, damming or diverting water; noise; exotic plants and natural hazards. It does not control discharges of contaminants into air.
- **Regional Plan: Water for Otago** (Operative 2004) - This plan establishes a framework for the use, development and protection of Otago's rivers, lakes, aquifers and wetlands. It contains rules which require resource consents to be obtained for the: taking of water; damming or diversion of water; discharge of water into water; discharge of contaminants into water, or onto or into land in circumstances which may result in that contaminant entering water; use, erection, alteration, extension, removal or demolition of structures in the bed of any lake or river and the introduction of vegetation or deposition of any substance or drainage or reclamation in the bed of any lake or river.

2.3 Other legislation

Other legislation has implications for air quality, or activities which discharge contaminants into air. This legislation includes the following:

- Health Act 1956;
- Building Act 1991;
- Health and Safety in Employment Act 1992;
- Traffic Regulations 1976; and
- Hazardous Substances and New Organisms Act 1996.

It is the role of Otago's city and district councils to enforce the provisions of the Health Act and Building Act. The Department of Labour, the Land Transport Safety Authority and Ministry of Health have responsibilities under the Health and Safety in Employment Act, the Traffic Regulations and Health Act, respectively. The Environmental Risk Management Authority is responsible for implementing the Hazardous Substances and New Organisms Act.

3 Kai Tahu ki Otago: Air perspective

Section 8 of the Resource Management Act 1991 requires all people exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, to take into account the principles of the Treaty of Waitangi. The Treaty guarantee of rangatiratanga to Kai Tahu should be reflected in the provision of adequate and appropriate opportunities for participation in air quality planning, management and monitoring.

Attitudes to resource use need to be reconciled with the relationships between iwi and te taiao, mauri, wairua, tapu, mana and rangatiratanga. Central to an understanding of these concepts is a knowledge of the Maori holistic values and the cosmogenic origins that make Kai Tahu part of the physical environment - they belong in it, and it does not belong to them. As kaitiaki they have an inherited responsibility to protect and preserve mauri and to conserve taoka.

Kai Tahu recognise the Regional Plan: Air as an important complementary part of the hierarchy of planning for the Otago Regional Council. The Regional Plan: Air is consistent with the cultural inter-relationships between the domains of Ranginui and

Papatuanuku, and the interaction between the key demi-gods Tane Mahuta, Tangaroa and Tawhirimatea.

The Kai Tahu perspective is guided by their belief in the tradition of Papatuanuku, Ranginui, Tawhirimatea, Tane Mahuta, and Tangaroa. The inseparable nature of these values means they cannot be addressed in isolation. What impacts on one impacts on all, a holistic perspective that is beginning to be recognised in the resource management process.

Following the separation of Ranginui and Papatuanuku, Tawhirimatea was the only child who objected to Ranginui's treatment and fled with him to his new home in the sky. From there he controls the elements and occasionally vents his spite on the world below. The activities of Tawhirimatea can be benign or spiteful, and it is in the nature of Maori ethos to ensure that nothing is done to enrage Tawhirimatea.

Kai Tahu believe that good health is the positive state of physical, mental, spiritual and social well being. Kai Tahu is concerned with the effect air quality has upon people's health. The Council must recognise that adverse effects on the air resource have the potential to harm people's health and well being.

Kai Tahu consider that when managing the air resource it is important to take into account the principle of kaitiakitanga – the duty to ensure that the air resource in Otago is managed with care and respect, for the benefit of current and future generations, and the health of the environment. The duty of the Crown to protect the iwi interests is an important factor.

The Ngai Tahu Claims Settlement Act 1998 (NTCSA) contains statements, called statutory acknowledgements, by Te Runanga o Ngai Tahu, of the particular cultural, spiritual, historic and traditional association of Ngai Tahu with specific areas in the Otago region.

The statutory acknowledgements and the areas to which they relate are set out in the Schedules of the NTCSA.

The effect of the statutory acknowledgements is set out in Part 12 of the NTCSA.

Under Section 208 of the NTCSA, local authorities must have regard to the statutory acknowledgements in deciding whether Te Runanga o Ngai Tahu is an affected person whose written approval must be obtained for a non-notified resource consent application, or must be served with a notified application for a resource consent.

Section 211 of the NTCSA enables Ngai Tahu to cite these acknowledgements in submissions or in proceedings before consent authorities or the Environment Court. A statutory acknowledgement is not binding on the consent authority or Court, but may be taken into account.

This note is for the purpose of public information only and does not form part of the Plan. It is required by Section 220 of the Ngai Tahu Claims Settlement Act 1998.