

**Form 7 — Notice of appeal to Environment Court against decision on  
proposed policy statement**

*Clause 14(1) of Schedule 1, Resource Management Act 1991*

**To** The Registrar  
Environment Court  
Christchurch

1. We, **Wise Response Incorporated**, appeal against a part of a decision of the **Otago Regional Council** on the following policy statement:

***Proposed Regional Policy Statement for Otago incorporating Council Decisions, clean version -1 October 2016*** (PRPS)

2. Wise Response made submissions on the PRPS.
3. Wise Response is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. Wise Response received notice of the decision on **1 October 2016**.
5. The decision was made by the **Otago Regional Council**.
6. The reasons for this appeal are that:

- 6.1 The Resource Management Act 1991 (the RMA) stipulates that,<sup>1</sup>

*“The purpose of a regional policy statement is to achieve the purpose of the Act by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.”*

- 6.2 In light of this purpose, several of the “issue” statements do not adequately provide a complete overview of the issues of the region and do not fully capture extent of the risks that the policies and objectives are meant to address.

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<sup>1</sup> Resource Management Act 1991 s 59.

- 6.3 The RMA further requires that,<sup>2</sup>  
*“A regional policy statement must not be inconsistent with any water conservation order **and must give effect to a national policy statement or New Zealand coastal policy statement.**” (emphasis added)*
- 6.4 The PRPS fails to give effect to:
- a. The National Policy on Freshwater Management 2014, and
  - b. The New Zealand Coastal Policy Statement 2010.
- 6.5 The PRPS fails to treat as relevant considerations directives specified in higher-order instruments likely to come into force during the life of the PRPS including:
- a. The Paris Protocol—A blueprint for tackling global climate change beyond 2020, and
  - b. The Proposed National Policy Statement on Indigenous Biodiversity 2011.
- 6.6 Generally, the PRPS has adopted reactive approaches to identifying and mitigating environmental risks. A proactive response and an overall precautionary approach to managing risks are imperative in order to meet the policies and objectives of the PRPS.
- 6.7 The PRPS fails to adequately consider and address matters prescribed by s30, s32 and Part 2 of the RMA.
7. We seek the following relief where text added appears in **boldface** and text removed is ~~stricken through~~:

## **PART B Chapter 1**

- 7.1 Policy 1.1.1 b)  
 “Taking into account the impacts of management of one resource on the values **and sustainability** of another, or on the environment.”
- 7.2 Policy 1.1.1 c)  
 “Recognising that **the value and function of** a resource may extend beyond the

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<sup>2</sup> Resource Management Act 1991 s 62(3).

immediate, or directly adjacent, area of interest”

7.3 Policy 1.1.3

**“f) Treating the United Nations Sustainable Development Goals (September 2015 and any subsequent revisions) as a relevant consideration”**

7.4 **“Policy 1.1.4 Sustainable landscape management**

**Provide an enabling environment to achieve sustainable landscape management by undertaking all of the following**

- a) **Promoting technical capacity to implement methods for sustainable landscape management;**
- b) **Promoting sustainable landscape methodologies when developing strategies, policies and sectorial plans; and**
- c) **Facilitating a diversity of landscape stakeholders to develop plans and agreements.”**

**PART B Chapter 3**

7.5 (Between the first and second paragraphs, insert the following paragraph)

**“Use of a natural resource induces individual and corporate responsibility to manage them sustainably for the collective benefit of all of society including future generations. Evaluation of long-term consequences for our activities must concur with ethical priorities of justice and inter-generational environmental stewardship.”**

7.6 Objective 3.1

“The **function and** values of Otago’s **ecosystems and** natural resources are recognised, maintained and enhanced”

7.7 Policy 3.1.1

**“o) Give effect to the obligations imposed by the National Policy Statement for Freshwater Management”**

7.8 Policy 3.3.1 a)

“Requiring that the volume and **instantaneous flow rate** of water allocated does not exceed what is necessary for its efficient use;”

7.9 Policy 3.1.4 Water shortage

“Manage for water shortage by undertaking all of the following:

- a. **Actively promoting land management that retain and improve moisture capture, natural infiltration, soil moisture holding capacity and deep percolation to enhance natural hydrological systems;**
- b. Encouraging collective coordination and rationing of the take and use of water when river flows or aquifer levels are lowering, to avoid breaching any minimum flow or aquifer level restriction;
- c. ~~Encouraging~~ **Only permitting** water harvesting and storage, to reduce demand on water bodies during periods of low flows **when subject to environmental flow regimes that give effect to all of Objective 3.1.”**

7.10 Policy 3.1.7 f)

~~“Maintain or enhance soil resources~~ **Actively promote soil conservation methods, carbon sequestration and natural fertility where soil is used for primary production.”**

7.11 Policy 3.1.8 a)

“Using appropriate erosion controls **and soil conservation methods;**”

7.12 Policy 3.1.9 a)

“Manage ecosystems and indigenous biological diversity in terrestrial, freshwater, **estuarine** and marine environments ...”

7.13 Policy 3.1.9 (add the following)

**“h) Actively promote the protection and the linking of existing ecosystems to create corridors for wildlife migration and maintain or enhance system-wide resilience.”**

7.14 Policy 3.1.12

~~“Encourage, facilitate and support~~ **Actively promote** activities which contribute to ~~enhancing~~ **the resilience and the enhancement** of the natural environment, by one or more of the following:”

7.15 Objective 3.2, Issue:

“Resource degradation **in these areas of particular significance** can adversely

affect the social, cultural and economic wellbeing of people and communities **and so deserve a greater degree of protection than other areas.**”

7.16 Policy 3.2.2

“Protect and enhance areas of significant indigenous vegetation and significant habitats of indigenous fauna, by all of the following:

- a. Avoiding **activities that generate** adverse effects on those values which contribute to the area or habitat being significant;
- b. Avoiding **activities that generate** adverse effects on other **natural** values of the area or habitat;
- c. Remedying **the resulting adverse effects** when ~~other adverse effects~~ **activities that cause them** cannot be avoided;
- d. ~~Mitigating when other adverse effects cannot be avoided or remedied;~~
- d. **Actively promoting the Encouraging** enhancement of those areas and values which contribute to the area or habitat being significant;
- e. Controlling the adverse effects of pest species, preventing their introduction and reducing their spread. “

7.17 Policy 3.2.4

“Protect, enhance and restore outstanding natural features, landscapes and seascapes, by all of the following:

- a. Avoiding ~~adverse effects on~~ **activities that adversely affect** those values which contribute to the significance of the natural feature, landscape or seascape;
- b. ~~Avoiding, remedying~~ Remedying or mitigating other adverse effects **caused by activities that cannot be avoided;**
- c. Recognising and providing for the positive contributions of existing introduced species to those values **based on attributes defined in Schedule 3;**
- d. Controlling the adverse effects of pest species, preventing their introduction and reducing their spread;
- e. Encouraging enhancement of those areas and values which contribute to the significance of the natural feature, landscape or seascape **based on attributes defined in Schedule 3.**

7.18 Policy 3.2.6

“Protect or enhance highly valued natural features, landscapes and seascapes by all of the following:

- a. Avoiding **activities that have** significant adverse effects **or have a high risk of causing significant adverse effects** on those values which contribute to the high value of the natural feature, landscape or seascape;
- b. ~~Avoiding, remedying~~ Remedying or mitigating other adverse effects **caused by activities which cannot be avoided;**
- c. Recognising and providing for positive contributions of existing introduced species to those values **based on attributes defined in Schedule 3;**
- d. Controlling the adverse effects of pest species, preventing their introduction and reducing their spread;
- e. Encouraging enhancement of those values which contribute to the high value of the natural feature, landscape or seascape **based on attributes defined in Schedule 3.**”

7.19 Policy 3.2.9

“Preserve or enhance the outstanding natural character of the coastal environment, by all of the following:

- a. Avoiding **activities that have or are likely to have** adverse effects on those values which contribute to the outstanding natural character of an area;
- b. ~~Avoiding, remedying~~ Remedying or mitigating other adverse effects **caused by activities that cannot be avoided;**”

*[c, d, e unchanged]*

7.20 Policy 3.2.10

“Preserve or enhance the high natural character of the coastal environment, by all of the following:

- a. Avoiding **activities that cause or are likely to cause** significant adverse effects on those values which contribute to the high natural character of an area;
- b. Remedying or mitigating other adverse effects **caused by activities that cannot be avoided;**”

*[c, d, e unchanged]*

7.21 Policy 3.2.12

“Protect surf breaks of national importance, by all of the following:

- a. Avoiding **activities that cause or are likely to cause** adverse effects on the natural and physical processes contributing to their existence;
- b. Avoiding **activities that cause or are likely to cause** adverse effects to **access, use or enjoyment of those surf breaks.** ~~of other activities on access to, and use and enjoyment of, those surf breaks”~~

7.22 Policy 3.2.14

“Protect outstanding freshwater bodies by all of the following:

- a. Avoiding **activities that cause or are likely to cause** significant adverse effects on those values which contribute to the water body being outstanding;
- b. ~~Avoiding, remedying~~ Remedying or mitigating other adverse effects on the water body **caused by activities which cannot be avoided;**  
[c, d unchanged]

7.23 Policy 3.2.15 (amend subsections e and f only)

- e. Ecological **function** and values;
- f. Hydrological **function** and values;”

7.24 Policy 3.2.16

~~Managing~~ **Protecting** the **function and** values of **all** wetlands

Protect the values, function and remaining scale of wetlands by all of the following:

- a. Avoiding **activities that cause or are likely to cause** significant adverse effects on the significant values of the wetlands;
- b. ~~Avoiding, remedying~~ Remedying or mitigating other adverse effects **caused by activities that cannot be avoided;**
- c. Controlling the adverse effects of pest species, preventing their introduction and reducing their spread;
- d. Encouraging ~~enhancement~~ **activities that enhance** ~~which contribute to~~ the values of the wetland.
- e. **Actively promote the rehabilitation of lost wetland.”**

7.25 Policy 3.2.18

“Protect areas of significant soil, by all of the following:

- a. Avoiding **activities that cause or are likely to cause** significant adverse effects on those values which make the soil significant;
- b. ~~Avoiding, remedying~~ Remedying or mitigating other adverse effects **caused by activities that cannot be avoided;**
- c. **Ensuring that all practical alternatives are considered before permitting** ~~Recognising that~~ urban expansion on significant soils; ~~may be appropriate due to location and proximity to existing urban development and infrastructure;~~
- d. Controlling the adverse effects of pest species, preventing their introduction and reducing their spread.”

**PART B Chapter 4**7.26 Policy 4.1.1 d)

“Effects of climate change **including but not limited to rise of average temperatures, rise of sea levels and frequency of extreme weather events,**”

7.27 Policy 4.1.3 f)

“Risk reduction and hazard mitigation measures **including alternative means and system redundancy;**”

7.28 Policy 4.1.4

“Assess activities for natural hazard risk to people and communities, by considering all of the following:

- a. The natural hazard risk identified, including residual risk;
- b. **The adequacy of** any measures to avoid, remedy or mitigate those risks, including relocation and recovery methods;
- c. The long term viability and affordability of those measures **as compared to the cost to life and property of not implementing such measures;** “  
*[d, e unchanged]*

7.29 Policy 4.1.5 (add)

- f. The need to actively promote system redundancy in anticipation of natural hazards;**
- g. The totality of social costs of recovery.”**



7.30 Policy 4.1.6 (add)

- “c. Avoiding activities that contribute to an increase in the risk of exceeding sustainable resource limits;**
- d. Actively promoting alternative methods that, reduce or negate the risk of exceeding sustainable resource limits.”**

7.31 Policy 4.1.8

“Where natural hazard risk to people and communities is uncertain or unknown, but potentially significant or irreversible, apply a precautionary approach to identifying, assessing ~~and managing that risk~~ **and where possible, avoiding activities that would be compromised by that risk.”**

7.32 Policy 4.1.10 b)

“There are no reasonable **and sustainable alternatives that result in reducing the risk exposure;**

7.33 Objective 4.2

~~“Climate change will bring higher sea levels and an increased frequency of climate-related natural hazard events, which will increase the risk that communities face.~~

**Globally, climate change is bringing higher sea levels, increasing the frequency of natural hazard events, changing the distribution of plants and animals and creating other environmental and economic outcomes that are negatively affecting the sustainability of our natural and physical resources.**

**National and international policy frameworks have set objectives and guidance for New Zealand to proactively work toward reducing the rate of global warming. The following policy acknowledges Otago’s role in this endeavour and gives effect to these policy statements and frameworks.”**

7.34 Policy 4.2.1

“Ensure Otago’s people and communities are able to adapt to, or mitigate the effects of sea level rise, over no less than 100 years **acknowledging the**

**significant uncertainty over the rate, potential acceleration and overall amount**, by using:

- a. A sea level rise of at least 1 metre by 2115, relative to 1990 mean sea level (Otago Metric Datum); and
- b. Adding an additional 10mm per year beyond 2115.”

7.35 Policy 4.2.2

“Ensure Otago’s people and communities ~~are able to adapt to, or mitigate~~ **and actively work to reverse known causes of** the effects of climate change, over no less than 100 years, by all of the following:

- a) Taking into account the effects of climate change, including by using the best relevant climate change data;
- b) Applying a precautionary approach ~~to~~ **when assessing and managing** the effects of **and contributors to** climate change where there is scientific uncertainty ~~and or~~ potentially significant or irreversible effects;
- c) Encouraging activities that assist to reduce or mitigate the effects of climate change.

**d) Encouraging activities that provide for social, economic and cultural well-being while sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations”**

7.36 Principal Reasons and Explanations under Policy 4.2.2

“Communities need consistent guidance on sea level rise, ~~and~~ extreme weather events **and all other adverse effects of climate change** to **actively** manage ~~their adverse those~~ effects.

Climate change ~~will bring~~ **is bringing** higher sea levels and ~~may increase~~ **is increasing** the frequency and severity of climate related natural hazards ~~such as~~ **including** flooding, landslips, erosion and drought. Stormwater systems may not be able to cope with heavier rainfall. Other effects of climate change include changing distributions of plants and animals, and consequential effects, such as the risk of saltwater intrusion into groundwater as a result of rising sea levels. There may be other adverse effects from climate change that are not yet known.

A precautionary approach is required where there is ~~scientific~~ uncertainty **whether the proposed activity will contribute to or be exposed to the effects of climate change.**

~~There may be benefits from higher temperatures such as opportunities for growing different crops and reduced demand for heating in winter.~~

The effects of climate change will result in social, environmental and economic costs, ~~and in some circumstances benefits.~~ It is prudent that these changes be planned for now, so that the impacts can be reduced.

7.37 Objective 4.3 Issue

Some **legacy** infrastructure can only be located in particular areas, and it may not always be possible to avoid significant adverse effects. **However, it is imperative that communities be vigilant in the promotion of alternatives so as to comply with the objectives and policies herein.**

7.38 Policy 4.3.1

Manage infrastructure activities, to achieve all of the following:

- a. Maintaining or enhancing the health, **safety and resilience** ~~and safety~~ of the community;
- b. Avoiding **activities, or** remedying or mitigating **the** adverse effects **caused or likely to be caused by** ~~of~~ those activities on existing land uses, including cumulative adverse effects on natural and physical resources;  
*[c, d, e unchanged]*
- f. Increasing the ability of communities to **mitigate** ~~respond~~ and adapt to emergencies, and ~~disruptive or~~ natural **hazards** ~~hazard events~~; “  
*[g unchanged]*

7.39 Objective 4.4 Issue (after the first paragraph add)

**The social and economic wellbeing of Otago’s people, and their health and safety, is dependent on energy needs being met by a secure, resilient and sustainable supply of energy. More efficient energy uses and a greater diversity of energy sources have the potential to increase community resilience without compromising our ability to sustain economic development.**

7.40 Policy 4.4.1 a)

“**Actively promoting** Encouraging the efficient use of existing structures or facilities; and”

7.41 Policy 4.4.2

“Promote small and community scale renewable electricity generation activities that ~~both~~:

- a. Increase the local community’s resilience and security of energy supply;
- b. **Result in increased demand-side efficiency;**
- c. Avoid, remedy or mitigate adverse **environmental** effects from that activity.

7.42 Policy 4.4.6 c)

- c. “Enabling the development or upgrade of transport infrastructure and associated facilities that ~~both~~:
  - i. Increase freight efficiency; and
  - ii. Foster the uptake of new technologies for more efficient energy uses, and renewable or lower emission transport fuels.
  - iii. **Foster uptake of public transportation through provision of safe, reliable and well sheltered alternatives to private transport.”**

### **PART C Implementation**

7.43 Method 7.7.1 ...

“Regional, district and city councils ~~may~~ **must regularly** provide information and guidance on:”

### **Other Relief**

7.44 Any other relief, including consequential amendments that the Court considers fit to address our concerns; and

7.45 Costs.

8. We attach the following documents to this notice:

- (a) a copy of our submission
- (b) a list of names and addresses of persons to be served with a copy of this notice.
- (c) Otago Regional Council decision on the Regional Policy Statement



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Richard Reeve

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Date 8 December 2016

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