

## Submission to OTAGO REGIONAL COUNCIL on

### “PROPOSED OTAGO REGIONAL POLICY STATEMENT” (JULY 2015)

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#### INTRODUCTION

1. Straterra<sup>1</sup> welcomes the opportunity to submit on the proposed Otago Regional Policy Statement (pORPS). We do so in the interests of achieving benefits for the minerals and mining sector, and thereby for the New Zealand economy as a whole. The submission deadline of 24 July is noted.
2. In preparing this submission, Straterra has consulted with OceanaGold Corporation, Greenwood Roche Chisnall, Golder Associates, Bathurst Resources, the Association of Quarries and Aggregates, and MERMAN Ltd.
3. Straterra submits from the point of view that the Resource Management Act 1991 system is aimed at both providing for economic growth, as well as managing for environmental, social and cultural outcomes (section 5 (2)).
4. Straterra would welcome the opportunity for further engagement on this submission with Otago Regional Council.

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<sup>1</sup> Straterra represents by 90 % by value of NZ minerals production, exploration, research, services, and support  
<http://www.straterra.co.nz/About+Straterra>

## OVERVIEW OF STRATERRA'S APPROACH

### Supreme Court decision on King Salmon and implications

5. In 2011 King Salmon applied for resource consents to develop marine farms in the Marlborough Sounds. The Board of Inquiry's decision was appealed to the High Court, then the Court of Appeal, then the Supreme Court. The SC found that if an RMA plan or policy statement<sup>2</sup> says that effects must be avoided in a particular area, then they must be avoided – there is no room to manoeuvre or negotiate an alternative outcome. While logical in itself, that finding prevents economic development in such cases, with no consideration of the merits of the application<sup>3</sup>.
6. The precedent created by the King Salmon decision risks tilting the playing field in RMA policy statements and plans against development<sup>4</sup>. That was not the intent of the RMA<sup>5</sup>.
7. As a consequence: in the preparation of statutory instruments such as regional policy statements, great care must be taken with the use of words or phrases, such as “avoid effects” (without the accompanying considerations of remedying and mitigating), as well as “minimising”, and “protection”. In the pORPS, these words occur frequently, and when codified as rules in district and regional plans, would amount to a large number of areas in which development is prohibited or prevented. Such areas would become like national parks.

### The way forward

8. The intent and spirit of the RMA system is to provide for effects-based, integrated management, i.e., consideration of proposals for use and development in the context of proposals to avoid, remedy and mitigate their effects on the values present in the land. It is possible – after such consideration, following the presentation and testing of evidence - that some activities are deemed by decision-makers to be incompatible with the management of the environmental values at places. In such cases, the appropriate outcome may be protection; alternatively, some activities could go ahead, subject to appropriate conditions, consistent with an overall outcome of protection at a place.
9. These approaches are particularly important for minerals and petroleum as these are location-specific resources. Although the pORPS does contain references to this issue, it is not in a way that is integrated effectively into the document as a whole.
10. To be clear, it is important to identify places or sites of importance for one value or another, e.g., outstanding wetland or heritage, or significant natural vegetation, for the purposes of sections 6

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<sup>2</sup> The relevant statutory instrument is the Coastal Policy Statement 2010, concerning outstanding natural landscapes.

<sup>3</sup> The decision prevents a plan change to provide for development.

<sup>4</sup> An example is the review of the Thames Coromandel District Plan, which in its initial form discriminated arbitrarily against mining.

<sup>5</sup> The RMA marked a departure from the precursor Town and Country Planning Act 1977 (repealed), to avoid blunt instrument policies such as zoning, and “picking winners”. The market should decide, within regulatory limits, e.g., Part II of the RMA.

or 7 of the RMA. But the identification of these places does not mean, *a priori*, that total protection of, or the prevention of development in, such places via a stipulation to avoid all adverse effects, is always the appropriate management outcome.

11. For these reasons, we seek deletion of the word “protect” where it occurs, its replacement with “maintain” or “manage”, and addition of remedying and mitigating wherever sole reference is made to avoiding adverse effects.
12. For these reasons, we have deleted the word “protect” where it occurs and replaced with “maintain”, and we have added “remedying or mitigating” wherever sole reference is made to avoiding adverse effects.
13. In the same vein, the term “minimise” is unhelpful because it is imprecise. Does it mean minimise to zero? Or to some other arbitrary level? On the same rationale as above, it is better to replace this term with “avoid, remedy and mitigate”.

#### **The role of minerals in the Otago economy and society**

14. Minerals exploration and mining, and the use of mined and quarried minerals, are significant economic activities in the Otago region, are connected to the regional economy more broadly, and deserve specific mention:
  - The Macraes and Fraser gold mines, and associated infrastructure and brownfields gold resource development, and mining, e.g., Coronation;
  - Numerous quarries for aggregates for use in roading, construction, and other civil engineering works and infrastructure, e.g., renewable electricity generation;
  - Lignite resources in Otago and Southland present a range of development opportunities;
  - The use of coal in existing and potential food processing and other industries, and in the heating of large buildings such as the university, hospitals and schools in the region;
  - Minerals development potential in tungsten, coal, and, potentially, other minerals.

#### **General considerations applying to minerals exploration and mining/quarrying**

15. Mining/quarrying underpins the smart economy<sup>6</sup>, and is essential to sustainability<sup>7</sup> in New Zealand. It is as important to New Zealand and regions as any other form of primary production, or energy generation.
16. Mining/quarrying is a temporary land-use – we borrow the land, mine it, and return it, either to a former use, or a new use or an enhanced use, depending on the conditions imposed when consents were/are granted under the RMA. Environmental management is an integral part of

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<sup>6</sup> <http://www.straterra.co.nz/mining4nz/why-mine-in-nz/everyone-uses-minerals/every-green-job-relies-on-mining/>

<sup>7</sup> <http://www.straterra.co.nz/sustainability/minerals-are-part-of-sustainability/>

any modern mining venture and society, rightly, demands standard or best-practice<sup>8</sup> approaches. Without such approaches, mining/quarrying would not get off the ground.

17. As stated elsewhere, mining or quarrying can only be undertaken where there are economically-recoverable resources or mineral deposits. These must first be found, subjected to feasibility studies for development and to regulatory approval processes, then development, then the earning of income. To develop a new mine or quarry takes years, and can cost millions of dollars in assessment and obtaining regulatory approvals. In such processes, there is ample opportunity for public participation, as well as engagement with iwi/hapu.
18. The above consideration raises the issues of sterilisation of resources, and “reverse sensitivity”. For example, if a new subdivision were sited on top of a potential minerals resource, e.g.; aggregates, those resources may become unavailable for extraction and local use or other economic activity. Equally, a new subdivision placed next to a resource could create reverse sensitivity effects; the consenting of a mine or quarry in such a situation would become more difficult. The pORPS addresses these issues to a degree.
19. By their nature, mining and quarrying lead inevitably to the depletion of an economic resource or mineral deposit. It has been argued by some that this is unsustainable. In our view, this is an inappropriate construct, and the RMA in fact reflects that in section 5 (2) (a) “*sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations*” (emphasis added).
20. Mining earns high wealth from a small footprint<sup>9</sup>. OceanaGold has calculated that it would take more than 700 years of farming at Macraes to earn the same wealth as expected during the life of the Macraes mine (20-30 years). As mining progresses, the land is rehabilitated and returned into pasture. Typically that “new” pasture will be more productive for farming than it was previously.
21. Miners on average earn more than double the national average wage (previous footnotes refer). Mining encapsulates a broad range of careers<sup>10</sup>, many of them highly skilled.

#### **General considerations applying to energy**

22. In addressing energy in the pORPS, the council looks to have conflated the issues of the global response to climate change with those of energy security and other aspects, e.g., reliability, affordability. The result is objectives and policies that are incomplete or do not make sense.
23. Energy sources, whether for electricity or other forms of energy, can be renewable or fossil fuel based. The Macraes gold mine, for example, is a significant consumer of both diesel, and electricity from renewable sources. The diesel is currently imported from outside of Otago, and the electricity is supplied through the national grid.

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<sup>8</sup> For example

[http://www.mineralswestcoast.co.nz/data2/040014030031\\_guidelines%20for%20mine%20rehabilitation%20n%20westland.pdf](http://www.mineralswestcoast.co.nz/data2/040014030031_guidelines%20for%20mine%20rehabilitation%20n%20westland.pdf)

<sup>9</sup> <http://www.straterra.co.nz/mining4nz/why-mine-in-nz/mining-and-the-nz-economy/>

<sup>10</sup> <http://www.straterra.co.nz/mining4nz/careers-in-mining/>

24. If section 7 (j) of the RMA concerns “*the benefits to be derived from the use and development of renewable energy*”, section 7 (b) speaks to “*the efficient use and development of natural and physical resources*” (which include coal and petroleum). These are simply matters to which decision-makers and others exercising functions and powers under the Act “*shall have particular regard*”. There is no particular reason under the RMA to arbitrarily favour one type of energy over another.
25. Missing from the pORPS is the notion that Otago could be a producer of fossil fuels, and earn wealth from this activity. Depending on the economics, Otago lignite could be converted into diesel or fertiliser, or made into briquettes for home heating or industrial use. This is currently not economic, nor is it likely to be in the short or even the medium term, however, it could be in the longer term, and that possibility should be considered in the pORPS. A similar consideration stands for coal, generally.
26. Today there are a range of industries in Otago that use coal as a source of industrial process heat, e.g., the Cadbury factory, and that is also the case for the heating of large buildings, such as the University of Otago, hospitals and schools in the region. They use coal because it is one-third the price of electricity as a source of heat. Biomass is not an option at any scale at present but may be an option, particularly in combination with fossil fuels, in the future. Locally-mined coal could be used locally.
27. Aspects to do with greenhouse gas emissions are addressed under the Climate Change Response Act 2002 regime, not the RMA, and, therefore, should not form a concern for the council in its RMA planning.
28. To elaborate on the above, the driver for “lower emission transport fuels” is climate change policy, a global issue demanding a global response, not the RMA or its purpose of sustainable management. The creation and dissemination of lower-emission transport fuels, nationwide, will depend, among other factors, on advances in cost-effective technologies, and on New Zealand’s global competitiveness under a new global climate change agreement.

#### **“Picking winners”**

29. There are situations in which it is appropriate for central or local government to intervene in the market to achieve better outcomes for the economy and society than would otherwise occur. An example would be freshwater, when regulation may be appropriate to address or manage the cumulative effects of water pollution or water scarcity.
30. Care is needed in such situations for the council to avoid “picking winners”, by deciding arbitrarily on what is a better use of resources than another. An example is the policies that arbitrarily favour farmland remaining as farmland. If the council’s concern is that landscapes would be affected by farmland being converted into other uses, then the pORPS – or, rather, district plans - would need to address landscape issues directly. Otherwise, the council is basically saying that it likes farming because it likes farming - hardly a robust or objective policy rationale.
31. At issue is that the concept of economic efficiency has been ignored. The council is instead arguing, for example, for the promotion of native tussocklands over productive pasture because

it is better at retaining water. That is certainly an argument in favour of choosing one land-use over another. But it is not the only one, and alternatives, if they exist, should be also considered. This policy and others like it are an unwarranted blunt instrument, and go against the spirit and intent of the RMA.

### **Making “policy on the hoof”**

32. The material in the pORPS to do with energy, freshwater management, and biodiversity offsets reads like the council is getting ahead of central government in areas that are properly the concern of central government on behalf of all New Zealanders and regions. The absence of technical expertise on these matters is particularly stark, evidenced by too much detail on some matters, and the omission of others, leading to the appearance of a package of measures, when the likely outcomes are rules in plans that are unworkable and undesirable.
33. To a lesser extent, we have found the same tendency in the pORPS in areas such as heritage, and hazardous substances.
34. The common theme for all of the above is that these matters are either: regulated under other legislation, or central government policy work is ongoing or incomplete.

## **DETAILED SUBMISSIONS**

### **Part A: Introduction**

Note: the tracked changed material in the reproduced excerpts of the pORPS, throughout the remainder of this submission, are Straterra’s proposed amended or added wording. The tracked changes are then followed by comment outlining the reason for the requested change.

#### **Overview**

“Continued prosperity and wellbeing is essential to ensuring the community is equipped to face the environmental, economic, cultural and social changes of the 21st century, and to provide opportunities for all people to realise their aspirations. A thriving and healthy natural environment is vital to sustaining our wellbeing.

The RPS is a high level policy framework for sustainable integrated management of Otago’s resources and identifies the regionally significant issues that are addressed by that framework. It also gives effect to requirements of the Resource Management Act 1991. Appendix 1 outlines the statutory framework.

The framework for the RPS has been developed to distil the best of the distinct life-style Otago has to offer: outstanding and wild environments, [abundant natural resources](#), prosperity, abundant recreational opportunities, a sense of rich local history, and community pride. It also seeks to provide for the values held by takata whenua and the priorities expressed by the wider Otago community.”

Comment: Otago’s environments include natural resources, and warrant specific mention.

### **The Otago Region**

“Otago is the second largest region in New Zealand, at about 32,000 km<sup>2</sup> (12% of New Zealand’s land area). It stretches 480km along the South Island’s eastern coast, from the Waitaki River in the north to The Brothers Point in the south. It reaches inland to the alpine lakes Wakatipu, Wanaka and Hawea, encompassing the Clutha Mata-au, and Taieri catchments.

Otago covers a vast range of geography and ecosystems: tussock and tor covered block mountains and dry inland basins, glacial lakes and their mountain settings, broad grassy valleys fringed with beech forests extending well into the Southern Alps and dramatic coastlines around the Otago Peninsula and the Catlins. The vegetation is similarly diverse, from the lowland podocarp forests of the Catlins, through the dryland, grassland ecosystems of Central Otago to the high rainfall beech and alpine areas of Mount Aspiring/Tititea National Park.

Human activity has left its mark on the landscape, including Māori archaeological sites, hydro lakes, tailings and bridges from the gold rush era, pastoral landscapes, and historical architecture. Introduced species have become a valued part of the natural environment in some cases, and troublesome pests in others.

Agriculture ~~currently forms~~has formed the basis of Otago's economic development and continues to be a major source of revenue, as is mining for gold and other minerals, including aggregates. ~~However, t~~ourism now provides more than a quarter of Otago's Gross Domestic Product – the highest rate in New Zealand.

At the 2013 census, Otago's regional population of 202,467 was the seventh largest of New Zealand's 16 regions, and about 4.8% of New Zealand's total population. The Queenstown Lakes District was the second fastest growing territorial authority area in New Zealand."

Comment: Otago was built on mining. We suggest that the pORPS could place more emphasis on the recognition of this fact.

### **Otago has high quality natural resources and ecosystems**

"Society relies heavily on the systems and services of the natural environment.

This chapter addresses our fundamental reliance on natural resources and ecosystem services to sustain us, our way of life, cultural identity and our economy. Agriculture and tourism, Otago's biggest earners, both rely on having a great environment, while mining earns high wealth from a small footprint. The chapter deals with the resources that are most important to us, and the inherent qualities of the natural environment that give it value beyond human use."

Comment: The point is that Otago's resources include minerals, and that these resources deserve specific mention.

## **Part B: Chapter 2**

### **Otago has high quality natural resources and ecosystems**

"Otago's economy is driven by ~~four~~three sectors: primary production, minerals and petroleum exploration and mining/production, and tourism and education. The future of the first two sectors, and with this the social and economic wellbeing of Otago's people and communities, strongly relies on the quantity and quality of Otago's natural resources.

Beyond that, our natural resources and our environment have intrinsic values that shape our identity, as individuals and as communities. Some of our natural resources are unique, either to New Zealand or to Otago.

It is critical to recognise the value we place on Otago's natural resources and to manage these resources accordingly. This includes identifying resources which we want to preserve for future generations."

Comment: The specific mention is made because the general impression reading through the pORPS is that minerals are an afterthought, whereas the sector should be considered on equal footing with any other activity.

### **Objective 2.1 The values of Otago’s natural and physical resources are recognised, maintained and enhanced**

“Some of the many values of our natural resources may conflict with each other: for example, we depend on water for food production, yet we want water for healthy rivers. Otago’s biodiversity is an example of another resource under pressure, in part from indirect consequences of land use, such as the introduction and spread of pest species. A good quality resource management framework addresses all the values attached to our resources, and identifies those which merit particular attention when considering use and development and –to provide at places for need protection in some circumstances, where appropriate.”

Comment: As discussed in the overview, the intent and spirit of the RMA system is to provide for effects-based or integrated management, i.e., consideration of proposals for use and development in the context of proposals to avoid, remedy and mitigate their effects on the values present in the land. It is possible – after such consideration - that some activities are deemed by decision-makers to be incompatible with the appropriate management of the values at places, and in such cases, the appropriate outcome would be “protection” of these values from inappropriate activities. This approach is particularly important for minerals and petroleum as location-specific resources, and the pORPS contains references to this issue, into which this objective should be fully integrated.

#### **Policy 2.1.1 Managing for freshwater values**

Recognise freshwater values, and manage freshwater, to:

- a) Support healthy ecosystems in all Otago aquifers, and rivers, lakes, wetlands, and their margins; and
- b) Retain the range and extent of habitats provided by freshwater; and
- c) Protect outstanding water bodies and wetlands; and
- d) Protect migratory patterns of freshwater species, unless detrimental to indigenous biodiversity; and
- e) Avoid aquifer compaction, and seawater intrusion in aquifers; and
- f) Maintain good water quality, including in the coastal marine area, or enhance it where it has been degraded; and
- g) Maintain or enhance coastal values supported by freshwater values; and
- h) Maintain or enhance the natural functioning of rivers, lakes, and wetlands, their riparian margins, and aquifers; and
- i) Retain the quality and reliability of existing drinking water supplies; and
- j) Provide for the pProtection, use and development of –Kāi Tahu values; and

- k) Provide for other cultural values; and
- l) Provide for the protection, use and development of~~Protect~~ important recreation values; and
- m) Maintain the aesthetic and landscape values of rivers, lakes, and wetlands; and
- n) Avoid, remedy or mitigate the adverse effects of pest species, prevent their introduction and reduce their spread; and
- o) Mitigate the adverse effects of natural hazards, including flooding and erosion; and
- p) Maintain the ability of existing infrastructure to operate within their design parameters.

Comment: It is noted that Policy 2.1.1 (h) would spell the end of any new hydro-electricity development in Otago, as would, potentially Policy 2.2.1 (p). Perhaps, Otago plans to meet future energy needs with the discovery and development of coal, lignite and petroleum resources, having a history of turning down windfarm development.

As worded, Policy 2.1.1 (l) could have unintended consequences, for example, a call from some trout anglers to have a ban placed on other trout anglers accessing rivers by helicopter, through the planning framework. As stated elsewhere, protection should be one of a number of possible outcomes of land and water-use decisions. Herein lies a natural tension, between planning for integrated management of resources and other relevant RMA outcomes, and providing for good decisions to be made on specific proposals. Straterra fully supports the identification of outstanding places or significant vegetation etc. Where we advocate caution is where the call for protection is made without any consideration of a proposal, or how its effects may be avoided, remedied or mitigated. It may well be that in a particular place, a particular form of development would be inappropriate. The outcome of a decision-making process would be “protection” in that case. Protection in such cases should be viewed, therefore, as an outcome of the RMA process, not an *a priori* decision.

As worded, Policy 2.1.1 (n) risks being impossible to implement, with inevitable prosecutions resulting, including of the regional council. In general, the use of the word “avoid”, especially post-King Salmon, is the same as saying “prohibited”.

### **Policy 2.1.2 Managing for the values of beds of rivers and lakes, wetlands, and their margins**

Recognise the values of beds of rivers and lakes, wetlands, and their margins, and manage them to:

- a) Provide for~~Protect~~ or restore their natural functioning; and
- b) Protect outstanding water bodies and wetlands; and
- c) Maintain good water quality, or enhance it where it has been degraded; and
- d) Maintain ecosystem health and indigenous biodiversity; and
- e) Retain the range and extent of habitats supported; and
- f) Maintain or enhance natural character; and
- g) Provide for the use, development and p~~Protection of~~ Kāi Tahu values; and

- h) Provide for other cultural values; and
- i) Maintain their aesthetic and amenity values; and
- j) Avoid, remedy or mitigate the adverse effects of pest species, prevent their introduction and reduce their spread; and
- k) Mitigate the adverse effects of natural hazards, including flooding and erosion; and
- l) Maintain bank stability

Comment: As above. The deletion of Policy 2.1.2 (e) is proposed to provide for a range of approaches to avoiding, remedying or mitigating the effects of development, to include compensatory and offsetting approaches (noting our views on Policies 4.5.7 and 4.5.8).

#### **Policy 2.1.4 Managing for air quality values**

“Recognise air quality values, and manage air quality, to:

- a) Maintain good ambient air quality that supports human health, or enhance air quality where it has been degraded; and
- b) Provide for the use, development and pProtection of Kāi Tahu values; and
- c) Maintain other cultural, aesthetic and amenity values.”

Comment: As above.

#### **Policy 2.1.5 Managing for soil values**

“Recognise soil values, and manage soils, to:

- a) Maintain their life supporting capacity; and
- b) Maintain soil biodiversity; and
- c) Maintain biological activity in soils; and
- d) Maintain soil’s function in the storage and cycling of water, nutrients, and other elements through the biosphere; and
- e) Maintain soil’s function as a buffer or filter for pollutants resulting from human activities, including aquifers at risk of leachate contamination; and
- f) Retain soil resources for primary production; and
- g) Provide for the use, development and protection ofProtect Kāi Tahu values; and
- h) Provide for other cultural values; and
- i) Maintain the soil mantle where it acts as a repository of heritage objects; and
- j) Maintain highly valued soil resources; and
- k) Avoid, remedy or mitigate contamination of soil; and

l) Avoid, remedy or mitigate the adverse effects of pest species, prevent their introduction and reduce their spread.”

Comment: Issues to do with “protection” (Policy 2.1.5 (g)) and “avoid” (Policy 2.1.5 (k) and (l)) have been addressed elsewhere.

### **Objective 2.2 Otago’s significant and highly-valued natural resources are identified, and ~~maintained~~protected or enhanced**

“Otago has many unique landscapes, natural features and areas of indigenous biodiversity which are nationally or regionally important. Giving these a higher level of protection ensures they will be retained, while consumptive use of resources (e.g., mining, quarrying and petroleum production) will be directed to areas where adverse effects are more acceptable, if possible. If-not, as minerals can only be mined where they exist, they may be recognised as appropriate activities in these areas dependent on the avoidance, remediation or mitigation measures adopted.”

Comment: As discussed elsewhere.

### **Policy 2.2.2 Managing significant indigenous vegetation and significant habitats of indigenous fauna**

“~~Maintain~~Protect and enhance the values of areas of significant indigenous vegetation and significant habitats of indigenous fauna, by:

a) Avoiding, remedying or mitigating adverse effects on those values which contribute to the area or habitat being significant; and

~~b) Avoiding significant adverse effects~~ on other values of the area or habitat; and

c) Assessing the significance of adverse effects on those values, as detailed in Schedule 3; and

~~d) Remediating, when adverse effects cannot be avoided; and~~

~~e) Mitigating where adverse effects cannot be avoided or remediated; and~~

f) Encouraging enhancement of those areas and values.”

Comment: As discussed elsewhere. Note also that Policy 2.2.2 (f) falls within compensatory measures that an applicant or developer might propose or undertake as part of managing the effects of their activities, to achieve sustainable management. This falls within the construct of integrated management.

### **Policy 2.2.4 Managing outstanding natural features, landscapes, and seascapes**

“~~Maintain~~Protect, enhance and restore the values of outstanding natural features, landscapes and seascapes, by:

a) Avoiding, remedying or mitigating adverse effects on those values which contribute to the significance of the natural feature, landscape or seascape; ~~and~~

~~b) Avoiding, remedying or mitigating and~~ other adverse effects on other values; and

- c) Assessing the significance of adverse effects on values, as detailed in Schedule 3; and
- d) Recognising and providing for positive contributions of existing introduced species to those values; and
- e) ~~Avoiding, remedying or mitigating~~Controlling the adverse effects of pest species, preventing their introduction and reducing their spread; and
- f) Encouraging enhancement of those areas and values.”

Comment: As argued and recommended above, and elsewhere.

### **Policy 2.2.6 Managing special amenity landscapes and highly valued natural features**

“~~Maintain~~Protect or enhance the values of special amenity landscapes and highly valued natural features, by:

- a) Avoiding, ~~remedying or mitigating~~ significant adverse effects on those values which contribute to the special amenity of the landscape or high value of the natural feature; and
- ~~b) Avoiding, remedying or mitigating~~ other adverse effects on other values; and
- c) Assessing the significance of adverse effects on those values, as detailed in Schedule 3; and
- d) Recognising and providing for positive contributions of existing introduced species to those values; and
- e) ~~Avoiding, remedying or mitigating~~Controlling the adverse effects of pest species, preventing their introduction and reducing their spread; and
- f) Encouraging enhancement of those values.”

Comment: Ditto.

### **Policy 2.2.9 Managing the natural character of the coastal environment**

“~~Maintain~~Preserve or enhance the natural character values of the coastal environment, by:

- a) Avoiding, ~~remedying or mitigating~~ significant adverse effects on those values which contribute to the outstanding natural character of an area; and
- b) Avoiding, ~~remedying or mitigating~~ significant adverse effects on those values which contribute to the high natural character values of an area; and
- c) Assessing the significance of adverse effects on those values, as detailed in Schedule 3; and
- d) Avoiding, remedying or mitigating other adverse effects on other values; and
- e) Recognising and providing for the contribution of existing introduced species to the natural character of the coastal environment; and
- f) Encouraging enhancement of those values; and
- g) ~~Avoiding, remedying or mitigating~~Controlling the adverse effects of pest species, prevent their introduction and reduce their spread.”

Comment: Ditto.

### Policy 2.2.13 Managing outstanding water bodies and wetlands

“~~Maintain~~~~Protect~~ the values of outstanding water bodies and wetlands by:

- a) Avoiding, ~~remedying or mitigating~~ significant adverse effects, including cumulative effects, on those values which contribute to the water body or wetland being outstanding; and
- b) Avoiding, remedying or mitigating other adverse effects on the water body or wetland’s values; and
- c) Assessing the significance of adverse effects on values, as detailed in Schedule 3; and
- d) ~~Avoiding, remedying or mitigating~~~~Controlling~~ the adverse effects of pest species, preventing their introduction and reducing their spread; and
- e) Encouraging enhancement of outstanding water bodies and wetlands.”

Comment: Ditto.

### Policy 2.2.15 Managing highly valued soil resources

“~~Maintain~~~~Protect~~ the values of areas of highly valued soil resources, by:

- a) Avoiding, ~~remedying or mitigating~~ significant adverse effects on those values which contribute to the soil being highly valued; and
- ~~b) Avoiding, remedying or mitigating~~ other adverse effects on values of those soils; and
- c) Assessing the significance of adverse effects on values, as detailed in Schedule 3; and
- d) Recognising that urban expansion may be appropriate due to location and proximity to existing urban development and infrastructure.”

Comment: Ditto.

### Objective 2.3 Natural resource systems and their interdependencies are recognised

“Our resources are interconnected, and the use of one can affect the values of another. Those interconnections are complex, and they are not always reflected in the functions of local authorities, or in the regional, district or city boundaries. An example of this issue is Otago’s coastal environment, a highly valued resource at the nexus between land and marine environments that may additionally include freshwater systems. These diverse resources contribute to distinct land- and seascapes and support a corresponding range of ecosystems. For management purposes, the coastal environment is often partitioned into separate management units. Moreover, administration of this complex resource is guided by several statutes that are implemented by multiple authorities. This example illustrates why the management of natural resources needs to be integrated to ensure that resource management decisions are consistent and take account of the linkages between every part of the environment. As a further example of the need for integrated management, mining is a high-value use of land, and is a temporary land-use, entailing the disturbance, and the subsequent rehabilitation or restoration of land when mining is completed, into a former use, an enhanced use or a new use. Once again, several different pieces of legislation will apply.”

Comment: As discussed elsewhere.

### **Policy 2.3.1 Applying an integrated management approach among resources**

“Apply an integrated approach to the management of Otago’s natural and physical resources, to achieve sustainable management, by:

a) Taking into account the impacts of management of one resource on the values of another, or on the environment in general; and

b) Recognising that the form and function of a resource may extend beyond the immediate, or directly adjacent, area of interest, and

c) Recognising that mining and quarrying and petroleum production earn high wealth off a small footprint, and are a temporary use of land, and that sites are rehabilitated to a former use, a new use or an enhanced use.”

Comment: Mining and quarrying entails borrowing the land, mining the land, and returning the land – this is a temporary land-use, and should be recognised and provided for in the context of integrated management. Discussed elsewhere.

### **Policy 2.3.5 Applying an integrated management approach for airsheds**

“Apply an integrated management approach to activities that affect air quality, by:

a) Setting emission standards for airsheds that take into account foreseeable demographic changes, and their effects on cumulative emissions; and

b) Co-ordinating the management of land use and air quality, to:

i. Maintain or enhance, where degraded, air quality values; and

ii. Reduce the potential for adverse health and nuisance effects; and

iii. Where appropriate, provide for sustainable economic growth.”

Comment: As written, Policy 2.3.5 would lead to the prevention of all new industry in Otago. There will be areas where a degree of impoverishment of air quality will be admissible, e.g., for industrial discharges to air, while still meeting the requirements of the National Environmental Standards on Air Quality. Refer, for comparison to the Canterbury RPS<sup>11</sup>, as regards air quality, e.g., “*Policy 14.3.3 – Avoid, remedy or mitigate localised adverse effects on air quality To set standards, conditions and terms for discharges of contaminants into the air to avoid, remedy or mitigate localised adverse effects on air quality*”.

<sup>11</sup> Canterbury RPS, air quality <http://ecan.govt.nz/publications/Plans/crps-chapter14.pdf>

## Part B: Chapter 3

### Communities in Otago are resilient, safe and healthy

“Otago is at risk of a number of expected and unexpected shocks and changes, including from natural hazards, climate change and our reliance on energy, imported goods and fossil fuels. These disruptions have the potential to affect our economic, social, cultural and environmental wellbeing. There are also opportunities in this area for the region. Ensuring Otago’s communities develop having regard to environmental constraints, the effects of activities on the environment, and are designed in way which helps us to prepare for, respond, recover and adapt to such disruptions, will help make Otago’s communities resilient.”

Comment: To introduce some positivity into this discussion.

#### **Objective 3.1 Protection, use and development of natural and physical resources recognises environmental constraints and the need for people and communities to provide for their social, economic and cultural well-being.**

As a community, we are highly dependent on the resources available to us. When undertaking activities it is therefore important to consider the environmental context we operate within and develop accordingly. For example, there should be sufficient water supply available for a proposed activity, and efforts should be made to avoid siting sub-divisions on top of, or adjoining aggregate resources that may be needed for Otago’s roading, civil engineering, electricity generation and other infrastructure needs.-

Comment: This is to avoid the sterilisation of resources, in particular, aggregate and energy resources, that Otago will need in the future, to underpin a range of economic activities, including infrastructure, industry, and community resilience. The way the draft policies are worded currently, it would appear that the council is taking a NIMBY approach to resource extraction and use, namely, that it should happen outside of the Otago region and the environmental protection comes before consideration of ways that resources can be used in a sustainable manner. An additional policy to reflect this proposal amendment may also be required to provide the appropriate balance to this section of the pORPS. Refer to the proposed West Coast Regional Policy Statement.

#### **Policy 3.1.1 Recognising natural and physical environmental constraints**

“Recognise the natural and physical environmental constraints of an area, the effects of those constraints on activities, and the effects of those activities on those constraints, including:

- a) The availability of natural resources necessary to sustain the activity; and
- b) The ecosystem services the activity is dependent on; and
- c) The sensitivity of the natural and physical resources to adverse effects from the proposed in appropriate activity/land use; and
- d) Exposure of the activity to natural and technological hazard risks; and
- e) The functional necessity for the activity to be located where there are significant constraints, e.g., mineral, aggregate and petroleum resources.”

As discussed elsewhere.

### Policy 3.4.2 Managing infrastructure activities

“Manage infrastructure activities, to:

- a) Maintain or enhance the health and safety of the community; and
- b) Avoid, remedy or mitigate~~Reduce~~ adverse effects of those activities, including cumulative adverse effects on natural and physical resources; and
- c) Support economic, social and community activities; and
- d) Improve efficiency of use and development of natural resources; and
- e) Protect infrastructure corridors for infrastructure needs, now and for the future; and
- f) Increase the ability of communities to respond and adapt to emergencies, and disruptive or natural hazard events; and
- g) Protect the functioning of lifeline utilities and essential or emergency services.”

Comment: Policy 3.4.2 (d) is very important in the minerals context. As an example, aggregates for flood protection works and the like may be sourced from riverbeds. At places, that may require land owner permission from Land Information New Zealand (river bed) and the Department of Conservation (marginal strips), plus resource consents, and, potentially, a concession (from DOC), and a Crown minerals permit from NZ Petroleum & Minerals. Together, the regulatory burden becomes excessive, and the tendency is to instead source aggregates at greater expense (transport costs) from an existing quarry elsewhere in the region or from further afield. This is obviously an inefficient use and development of natural resources. To quantify that concern, the price of aggregate doubles on average on being trucked 30km from its source.

### Objective 3.4 Good quality infrastructure and services meet community needs

“It is essential for Otago’s economy and the wellbeing and health and safety of its communities, that the people of Otago are serviced by the right infrastructure at the right time. That includes the provision of materials for infrastructure development, such as aggregates, to appropriate specifications. Some infrastructure is provided by local authorities (such as water supply, waste water and stormwater), while others are managed by private companies. Local authorities have a role to play, to ensure that the local and regional infrastructure needs are being met.”

Comment: As elsewhere, the sense of the pORPS is that it has largely ignored the strategic contribution of mineral resources to Otago.

### Policy 3.4.1 Integrating infrastructure with land use

Achieve the strategic integration of infrastructure with land use, by:

- a) Recognising functional needs of infrastructure of regional or national importance; and
- b) Designing infrastructure to take into account:
  - i. Actual and reasonably foreseeable land use change; and

- ii. The current population and projected demographic changes; and
  - iii. Actual and reasonably foreseeable change in supply of, and demand for, infrastructure services; and
  - iv. Natural and physical resource constraints, including the availability of mineral resources, e.g., aggregates; and
  - v. Effects on the values of natural and physical resources; and
  - vi. Co-dependence with other infrastructural services; and
  - vii. The effects of climate change on the long term viability of that infrastructure; and
- c) Managing urban growth:
- i. Within areas that have sufficient infrastructure capacity; or
  - ii. Where infrastructure services can be upgraded or extended efficiently and effectively; and
- d) Co-ordinating the design and development of infrastructure with the staging of land use change, including with:
- i. Structural design and release of land for new urban development; or
  - ii. Structural redesign and redevelopment within existing urban areas.”

Comment: To recognise the issue of sterilisation of aggregate resources, and to connect with other policies to do with the location specificity of minerals resources.

### **Policy 3.4.2 Managing infrastructure activities**

“Manage infrastructure activities, to:

- a) Maintain or enhance the health and safety of the community; and
- b) Avoid, remedy or mitigate~~Reduce~~ adverse effects of those activities, including cumulative adverse effects on natural and physical resources; and
- c) Support economic, social and community activities; and
- d) Improve efficiency of use and development of natural resources, including mineral and aggregate resources; and
- e) Protect infrastructure corridors for infrastructure needs, now and for the future; and
- f) Increase the ability of communities to respond and adapt to emergencies, and disruptive or natural hazard events; and
- g) Protect the functioning of lifeline utilities and essential or emergency services.”

Comment: To address the King Salmon issue, as discussed elsewhere, and to provide adequate recognition of the role of minerals resources, in particular, aggregates, for infrastructure.

### Policy 3.5.2 Managing adverse effects of infrastructure that has national or regional significance

~~“Manage~~Minimise adverse effects from infrastructure that has national or regional significance, by:

a) Giving preference to avoiding their location in:

- i. Areas of significant indigenous vegetation and significant habitats of indigenous fauna; and
- ii. Outstanding natural features, landscapes and seascapes; and
- iii. Areas of outstanding natural character; and
- iv. Outstanding water bodies or wetlands; and

b) Where it is not possible to avoid locating in the areas listed in a) above, avoiding, ~~remedying or mitigating~~ significant adverse effects on those values that contribute to the significant or outstanding nature of those areas; and

~~c) Avoiding, remedying or mitigating~~ other adverse effects on values; and

d) Assessing the significance of adverse effects on those values, as detailed in Schedule 3; and

e) Considering the use of ~~offsetting, or other~~ compensatory measures, for residual adverse effects on indigenous biodiversity.”

Comment: As argued elsewhere. The deletion of offsetting is consistent with our recommended deletions of policies on biodiversity offsetting. Whilst the consideration of biodiversity offsetting is a laudable goal, as the situation stands in New Zealand at the moment, there is little by way of Court-accepted examples that fall within the internationally-accepted definition of this term. There are other options, a good case in point being the use of environmental compensation for Bathurst Resources’ Escarpment mine on the Denniston Plateau. There is a range of environmental measures that can be invoked, from “avoid, remedy or mitigate” through environmental compensation and ultimately to biodiversity offsetting. The pORPS should not limit itself to just the latter because all of the foregoing are equally valid management tools.

### Objective 3.6 Energy supplies to Otago’s communities are secure and sustainable

“The social and economic well-being of Otago’s people, and their health and safety, is dependent on their energy needs being met by a reliable, ~~affordable, environmentally sustainable~~ and secure supply of energy. More efficient energy uses, and a greater diversity of energy sources, ~~including local discovery and development of energy resources,~~ ~~has~~ the potential to increase community resilience, while increasing our ability to sustain economic growth. In particular, Otago’s reliance on fossil-based transport fuels could be reduced in the medium to long term through more efficient or alternative transport fuels, ~~and the supply thereof could be safeguarded by encouraging local development of fossil fuels.~~”

Comment: As worded, this objective is incomplete. Otago could also be a producer of fossil fuels, e.g., lignite for local uses, e.g., conversion to diesel, or for use in industrial process heat, depending on the economics, including the costs of managing greenhouse gas emissions (an issue that is addressed under other legislation than the RMA<sup>12</sup>).

<sup>12</sup> Climate Change Response Act 2002

The issue of resilience needs to build in the fact that coal and lignite are cost-effective sources of industrial process heat, around one-third the price of electricity per unit of heat produced. At this stage biomass is only slightly cheaper than electricity, and presents a host of other problems that will need to be resolved for biomass to be a credible and effective source of industrial process heat. These considerations go to dairy and other food processing, other industrial processes, as well as the heating of large buildings such as schools, the university, and hospitals in Otago. Biofuels may be a credible option in the future, in combination with fossil fuels.

The references to affordable and environmentally sustainable in addition to secure/reliable speak to the World Energy Council's "energy trilemma"<sup>13</sup>. Achieving all three objectives at the same time is difficult, and New Zealand ranks highly in the world on these indicators.

### Policy 3.6.6 Reducing long term demand for and safeguarding supply of ~~for~~ fossil fuels

ManageReduce the long term demand for fossil fuels from Otago's communities, by:

- a) Encouraging the development of compact and well integrated urban areas, to reduce travel needs within those areas; and
- b) Ensuring that transport infrastructure in urban areas has good connectivity, both within new urban areas and between new and existing urban areas, by:
  - i. Placing a high priority on walking, cycling, and public transport, where appropriate; and
  - ii. Maximising pedestrian and cycling networks connectivity, and integration with public transport; and
  - iii. Having high design standards for pedestrian and cyclist safety and amenity; and
- c) Enabling the development or upgrade of transport infrastructure and associated facilities that:
  - i. Increase freight efficiency; or
  - ii. Foster the uptake of new technologies for more efficient energy uses, or renewable or lower emission transport fuels; and

d) Safeguarding the supply of fossil fuels by encouraging the exploration and mining of coal and lignite, and the exploration and extraction of petroleum.

Comment: It is noted that the driver for "lower emission transport fuels" is climate change policy, not the RMA. The creation and dissemination of lower-emission transport fuels will depend, among other factors, on advances in cost-effective technologies, and on New Zealand's global competitiveness under a new global climate change agreement.

As argued under Objective 3.6, it is not just a matter of reducing demand for fossil fuels, by way increasing Otago's resilience; the region also has the potential to develop local energy resources, and derive economic benefits from that set of activities, as well as increased resilience. That should receive positive recognition in the RPS.

<sup>13</sup> <https://www.worldenergy.org/work-programme/strategic-insight/assessment-of-energy-climate-change-policy/>

### Policy 3.8.3 Managing fragmentation of rural land

Manage subdivision, use and development of rural land, to:

a) Avoid, remedy or mitigate -development or fragmentation of land which undermines or forecloses the potential of rural land:

i. For primary production, including minerals and petroleum prospecting, exploration and mining and production; or

ii. In areas identified for future urban uses; or

iii. In areas having the potential for future comprehensive residential development; and

b) Have particular regard to whether the proposal will result in a loss of the productive potential of highly versatile soil, unless:

i. The land adjoins an existing urban area and there is no other land suitable for urban expansion; and

ii. There highly versatile soils are needed for urban expansion, any change of land use from rural activities achieves an appropriate and highly efficient form of urban development; and

iii. reverse sensitivity effects on rural productive activities can be avoided, remedied or mitigated; and

iv. Mining or quarrying activities are considered, noting these are a temporary land-use and noting requirements for rehabilitation of disturbed ground post mine or quarry closure to a former use, a new use or an enhanced use;

c) Avoid, remedy or mitigate unplanned demand for provision of infrastructure, including domestic water supply and waste disposal; and

d) Avoid, remedy or mitigate the -creationg of competing demand for water or other resources.

Comment: We have made the above suggestions:

- In consideration of the King Salmon decision (explained in the overview);
- To provide adequate recognition of minerals and petroleum activities;
- In consideration of the fact that mining is almost always a higher-value use of land than any other activity, and that mining is a temporary land-use;
- If farmland is used for mining, it can be returned to farmland after mining, and in practice, it is returned as more productive farmland; and
- Where there is competing demand for resources, there is an argument for that resource to be transferred into the highest-value use, as is currently under debate in the Land & Water Forum, otherwise some activities will be arbitrarily discriminated in favour of others. That is economically inefficient.

### Objective 3.9 Hazardous substances and waste materials do not harm human health or the quality of the environment in Otago

“Waste materials are an end product of resource use and must be carefully managed to avoid creating environmental problems. Hazardous substances are dangerous but essential components of some activities. Hazardous substances and their waste should also be managed to avoid creating environmental problems or adversely affecting human health. It is noted that hazardous substances are currently comprehensively regulated under the Hazardous Substances and New Organisms Act 1996.”

Comment: To avoid unnecessary and counterproductive regulatory duplication.

#### Policy 3.9.2

##### ~~Policy 3.9.2 Managing the use, storage and disposal of hazardous substances, and the storage and disposal of waste materials~~

~~Manage the use, storage and disposal of hazardous substances, and the storage and disposal of waste materials, to avoid accidental spillage or release of those substances and materials, by:~~

- ~~a) Providing secure containment of those substances in case of accidental spillage; and~~
- ~~b) Minimising risk associated with natural hazard events; and~~
- ~~c) Avoiding adverse effects of those substances and materials on the health and safety of people, and on other values; and~~
- ~~d) Providing for the development of facilities to safely store, transfer, process, handle and dispose of hazardous waste and waste materials; and~~
- ~~e) Ensuring hazardous substances are treated or disposed at authorised facilities, in accordance with the relevant disposal instructions; and~~
- ~~f) Restricting the location of activities that may result in reverse sensitivity effects near:
  - ~~i. Authorised facilities for hazardous substance treatment or disposal; or~~
  - ~~ii. Waste transfer or disposal facilities.~~~~

Comment: These matters are already covered under the Hazardous Substances and New Organisms Act 1996 regime, administered by the Environmental Protection Authority. Deletion of this policy is proposed to avoid unnecessary and counterproductive regulatory duplication.

##### ~~Policy 3.9.5 Avoiding, remedying or mitigating the creation of new contaminated land~~

~~Avoid, or remedy or mitigate the effects of the creation of new contaminated land.~~

This is necessary to provide appropriately for the creation of tailings dams and the like at gold mines. These are temporary structures or earthworks during the operation of a mine; they do contain contaminants; and they are contained as part of their management.

### Policy 3.9.6

~~Policy 3.9.6 Encouraging use of best management practices for hazardous substance use~~

~~Encourage the use of best management practices to prevent or mitigate adverse effects of the use of hazardous substances on the environment, including reducing their use.~~

Comment: These matters are already covered under the Hazardous Substances and New Organisms Act 1996 regime, administered by the Environmental Protection Authority. Deletion of this policy is proposed to avoid unnecessary and counterproductive regulatory duplication.

## Part B: Chapter 4

### Objective 4.2 Historic heritage resources are recognised and contribute to the region's character and sense of identity

“Otago is a province rich in historic heritage and includes heritage places and areas that are recognised as nationally, regionally and locally important. Our historic heritage resources make significant contributions to our regional identity and tourism economy. Identification of these resources is a prerequisite to affording them a level of protection commensurate with their significance and providing for their continued role in our daily lives. The use of common criteria identifying historic heritage provides a more efficient and consistent approach across the region, while allowing local variation. A particular consideration is that mining is often done today where mining was done in the past; the effects of historical mining is today's heritage, and is amenable to integrated management.”

Comment: Discussed below under Policy 4.2.3.

#### Policy 4.2.1 Recognising heritage themes

Recognise the following elements as characteristic or important to Otago's historic heritage:

- a) Residential and commercial buildings;
- b) Māori cultural and heritage values;
- c) 19th and early 20th century pastoral sites;
- d) Early surveying, communications and transport, including roads, bridges and routes;
- e) Early industrial heritage, including mills and brickworks;
- f) Gold and other mining systems and settlements;
- g) Dredge and ship wrecks;
- h) Coastal heritage, particularly takata whenua occupation sites and those associated with early European activity such as whaling;
- i) Memorials

Comment: Supported. It is noted that Otago contains historic heritage in relation to, for example, the mining of scheelite, an ore of tungsten.

### Policy 4.2.3 Managing historic heritage values

“~~Manage~~**Protect** and enhance the values of places and areas of historic heritage, by:

a) Recognising that some places or areas are known or strongly suspected of containing archaeological sites, wāhi tapu or wāhi taoka which could be of significant historic or cultural value; and

b) Applying these provisions immediately upon discovery of such hitherto unidentified archaeological sites or areas, wāhi tapu or wāhi taoka; and

c) Avoiding, **remedying or mitigating** adverse effects on those values which contribute to the area or place being of regional or national significance; and

d) Avoiding, **remedying or mitigating** significant adverse effects on other values of areas and places of historic heritage; and

e) Assessing the significance of adverse effects on those values, as detailed in Schedule 3; ~~and f) Remediating, when adverse effects on other values cannot be avoided; and g) Mitigating when adverse effects on other values cannot be avoided or remediated;~~ and

~~f) Encouraging the integration of historic heritage values into new activities; and~~

~~g) Enabling adaptive reuse or upgrade of historic heritage places and areas where heritage values can be maintained.”~~

Comment: We note the potential for overlap or regulatory duplication with the Heritage New Zealand Pouhere Taonga Act 2014, under which historic and other heritage is administered and regulated, including approvals for the disturbance of relevant sites and heritage. This is a particular issue for mining because mining today is often done where mining was done in the past. What the old-timers left behind – noting that the net adverse environmental effects in the past are generally much greater than they are today – has, ironically, become today’s heritage.

Imposing a mitigation hierarchy when managing effects runs the risk of sub-optimal outcomes, i.e., less than cost-effective management of effects, without conferring any additional benefits on society or the environment. For this reason, the RMA provides for the simultaneous consideration of avoiding, remedying and mitigation of effects, which provides greater flexibility, and for better environmental and heritage outcomes.

### Objective 4.3 Sufficient land is managed and protected for economic production

“The use of land for productive activity, **including minerals and petroleum exploration and extraction**, underpins the economy of the region. We want to provide ongoing opportunities for economic growth and development by recognising and providing for the effects of activities. Managing the efficient use of land may also require the management of other land use activities where significant historical investment or future productive potential may be adversely affected by competing or conflicting activities.”

Comment: Supported, subject to our proposed amendments.

#### **Policy 4.3.1 Managing for rural activities**

“Manage activities in rural areas, to support the region’s economy and communities, by:

- a) Enabling farming and other rural activities, including minerals and petroleum activities, that support the rural economy; and
- b) Avoiding, remedying or mitigating~~Minimising~~ the loss of soils highly valued for their versatility for primary production; and
- c) Restricting the establishment of activities in rural areas that may lead to reverse sensitivity effects; and
- d) Avoiding, remedying or mitigating~~Minimising~~ the subdivision of productive rural land into smaller ~~lots~~ allotments that may result in rural residential activities; and
- e) Providing for other activities that have a functional need to locate in rural areas, including tourism and recreational activities that are of a nature and scale compatible with rural activities, and minerals and petroleum activities.”

Comment: As discussed elsewhere, and for consistency with our advocacy on other policies.

#### **Policy 4.3.2 Managing land use change in dry catchments**

Manage land use change in dry catchments, to avoid any significant reduction in water yield, by:

- a) Avoiding, remedying or mitigating the adverse effects of~~Restricting~~ any extension of forestry activities within those catchments that would result in a significant reduction in water yield, including cumulative reductions; and
- b) Avoiding remedying or mitigating~~Minimising~~ the conversion of tussock grasslands to species which are less able to capture and hold precipitation.

Comment: We observe that this policy, like a number of others, is of a command-and-control nature, and ignores the concept of economic efficiency. If forestry, by way of a scenario, led to more overall economic activity, despite lower water yield, then, arguably, this may be a better use of land, and a better way of achieving sustainable management. The possibility should be at least considered.

Continuing with this scenario, if reduced water yield were to affect downstream farmers without their agreement, the foresters ought to have to compensate those farmers appropriately. This policy may prevent that mechanism being explored.

In the case of the Macraes gold mine, the community decided that it preferred former mining land to be rehabilitated into productive pasture, not native tussocklands. OceanaGold is meeting the community’s wishes. This matter is discussed further in the overview to this submission, under “picking winners”.

#### **Policy 4.3.6 Managing locational needs for mineral and gas exploration, extraction and processing**

“Recognise the needs of mineral exploration, extraction and processing activities to locate where the resource exists, and manage them by:

a) Recognising that their use and development may be appropriate Giving preference to avoiding their location in:

- i. Areas of significant indigenous vegetation and significant habitats of indigenous fauna; or
- ii. Outstanding natural features, landscapes and seascapes; or
- iii. Areas of outstanding natural character; or
- iv. Outstanding water bodies; or
- v. Areas subject to significant natural hazard risk; and

b) Restricting the establishment of those activities in areas used for existing or potential mineral and gas exploration, extraction and processing that may result in reverse sensitivity effects.”

Comment: As set out in the first sentence of this policy, mineral deposits can only be mined or quarried where they occur. That is unlike a building, for example, which can be sited anywhere (within reason). Minerals activities, therefore, qualify as appropriate activities as opposed to “inappropriate” activities, within the meaning of, e.g., section 6 of the RMA.

When considering proposals for avoiding, remedying and mitigating the effects of minerals activities, any significance of a site would form an automatic consideration.

Note also the sequence of prospecting, exploration, mining feasibility studies, development and mining or quarrying. Hence the suggested inclusion of “existing or potential”.

Great care in wording is needed because of the King Salmon decision. Discussed elsewhere.

#### **Policy 4.4.1 Ensuring efficient water allocation and use**

Ensure an efficient allocation and use of water by:

- a) Requiring that the volume of water allocated does not exceed what is necessary for the purpose of use; and
- b) Requiring the development or upgrade of infrastructure that increases use efficiency; and
- c) Encouraging collective coordination and rationing of take and use of water when river flows or aquifer levels are lowering, or provide for the allocation of water to its highest-value use, to avoid breaching any minimum flow or aquifer level restriction; and
- d) Enabling water harvesting and storage, to reduce pressure on water bodies during periods of low flows.

Comment: The wording in this policy is detailed, while containing omissions; it looks like making “policy on the hoof”, discussed in the overview under this heading. There are a number of other mechanisms that the Land and Water Forum has explored, such as the use of “good management practice”. The question is what value this policy adds to the National Policy Statement for Freshwater Management 2014.

The difficulty with the concept of “collective co-ordination and rationing” is that there is no discussion of efficiency in the use of water. In practical terms, an efficient water user will be

reluctant to work collectively with an inefficient user of water. This is a very complex field, and, as stated, this policy goes into too much detail in some areas, while omitting consideration of others. It may be better to rely on the policy framework being developed under the NPS-FM. That would argue in favour of deleting this policy altogether.

#### **Policy 4.4.3 Encouraging environmental enhancement**

“Encourage activities which contribute to enhancing the natural environment, including to:

- a) Improve water quality; or
- b) Protect or restore habitat for indigenous species; or
- c) Regenerate indigenous species; or
- d) Mitigate natural hazards; or
- e) Restore the natural character of wetlands; or
- f) Improve the health and resilience of:
  - i. Ecosystems supporting indigenous biodiversity; or
  - ii. Important ecosystem services, including pollination; or
- g) Improve access to rivers, lakes, wetlands and their margins; or
- h) Buffer or link ecosystems, habitats and areas of significance that contribute to ecological corridors; or
- i) Control pest species.”

Comment: It is noted that in the context of managing effects on the environment, mining companies and other developers may include compensation activities among their proposals which could fall within this policy.

#### **Objective 4.5 Adverse effects of using and enjoying Otago’s natural and built environment are minimised**

“Any use of natural or physical resources has the potential to generate adverse effects. It is important to manage activities to avoid, remedy or mitigate, individually or cumulatively, significant adverse effects on degrading the quality of Otago’s natural environment. This requires the proactive management of natural resources, and can only be achieved through the integrated management of Otago’s natural resources, and by giving due consideration to both managing adverse effects and maintaining and enhancing environmental values, in the context of the benefits for Otago from the use and development of these resources. Resource use can also have adverse effects on other uses, future uses, or prevent the normal operation of existing uses. Resource management decisions are often about arbitrating between conflicting values or uses. For example, Section 2.3 of this document identifies resources which are so significant that adverse effects on their values should be avoided, remedied or mitigated appropriately. Some activities, such as mineral and petroleum extraction or infrastructure development or electricity generation, may have to locate in areas containing significant values. If we are to provide for those activities, it is important to outline how their adverse effects should be managed.”

Comment: Discussed elsewhere.

**Policy 4.5.2 Applying an adaptive management approach**

“Apply an adaptive management approach, to address adverse effects that might arise and that can be remedied before they become irreversible, by:

- a) Setting appropriate indicators for effective monitoring of those adverse effects; and
- b) Setting thresholds to trigger remedial action before the effects result in irreversible damage.”

Comment: Supported.

**Policy 4.5.3 Applying emission standards on domestic fuel burners**

“Apply emission standards to domestic heating appliances, to achieve ambient air quality that supports good human health while ensuring homes in Otago have adequate heating.”

Comment: Supported.

**Policy 4.5.6 Managing adverse effects from mineral and gas exploration, extraction and processing**

“~~Avoid, remedy or mitigate~~Minimise adverse effects from the exploration, extraction and processing of minerals, by:

a) ~~Recognising that their use and development may be appropriate~~Giving preference to avoiding their location in:

- i. Areas of significant indigenous vegetation and significant habitats of indigenous fauna; and
- ii. Outstanding natural features, landscapes and seascapes; and
- iii. Areas of outstanding natural character; and
- iv. Outstanding water bodies; and
- v. Areas subject to significant natural hazard risk;

b) Where it is not possible to avoid locating in the areas listed in a) above, avoiding, remediating or mitigating significant adverse effects of the activity on those values that contribute to the significant or outstanding nature of those areas; and

c) Avoiding, remediating or mitigating adverse effects on the health and safety of the community; and

d) Avoiding, r~~Remediating or mitigating~~ adverse effects on other values; and

e) Assessing the significance of adverse effects on those values, as detailed in Schedule 3; and,

f) Reducing unavoidable adverse effects by

- i. Staging development for longer term activities, where possible and reasonably practicable; and
- ii. Progressively rehabilitating the site, where possible, and-

- g) Considering the use of ~~offsetting, or~~ compensatory measures, for residual adverse effects; and
- h) Applying a precautionary approach to assessing the effects of the activity, where there is scientific uncertainty, and potentially significant or irreversible adverse effects.”

Comment: For consistency with Policy 4.3.6, and with Policies 4.5.7 and 4.5.8, and other advocacy.

#### Policy 4.5.7

~~**Policy 4.5.7 Enabling offsetting of indigenous biodiversity** “Enable offsetting of adverse effects on indigenous biodiversity values, only when:~~

- ~~a) The activities causing those effects have a functional necessity to locate in significant or outstanding areas; and~~
- ~~b) Those effects cannot be avoided, remedied or mitigated; and~~
- ~~c) Those effects do not result in the loss of irreplaceable or vulnerable biodiversity.~~

Comment: The treatment of biodiversity offsets is inconsistent with non-statutory guidance prepared by the Department of Conservation on biodiversity offsets, which Straterra largely supports, however, opposes on a number of material issues.

The framing of this topic is poor, incomplete and suggests inadequate knowledge of this highly-complex topic. There is too much detail on some matters, with extensive omissions. To be blunt: this is not a biodiversity offsets framework.

In any event, biodiversity offsetting is a tool to achieve an objective, not a policy approach *per se*. It is, arguably, inappropriate for inclusion in a regional policy statement.

For these reasons, we recommend deletion of this policy, noting that Straterra is advocating for clearer and improved national direction on this topic.

#### Policy 4.5.8

~~**Policy 4.5.8 Offsetting for indigenous biodiversity** “Provide for offsetting for indigenous biodiversity, when it is enabled, by ensuring that:~~

- ~~a) The offset achieves no net loss and preferably a net gain in indigenous biodiversity values; and~~
- ~~b) The offset is undertaken close to the location of development, where this will result in the best ecological outcome; and~~
- ~~c) The ecological values being achieved are the same or similar to those being lost; and~~
- ~~d) The positive ecological outcomes of the offset last at least as long as the impact of the activity, if practicable.~~

Comment: Ditto.

## CONCLUSIONS

Otago is an outstanding part of New Zealand. The region's variety is impressive when one considers, as a small sample: Dunedin, Oamaru, the Catlins, Mt Aspiring National Park, Macraes gold mine, Queenstown and Wanaka, the vineyards, the lakes, the Clutha River, Moeraki boulders, Lake Dunstan, the Crown Range, the skifields, Otago rail trail, the high country, cherry and apricot orchards ...

The proposed Otago RPS is an important statutory instrument for setting overall direction for councils in writing and reviewing RMA plans. Its preparation will always present a challenge, and the efforts of Otago Regional Council are greatly appreciated.

Straterra's submission presents proposals for making the pORPS a workable and fit-for-purpose document. The overarching theme is one of providing for the appropriate consideration of proposals for economic development, in particular, minerals prospecting, exploration and mining and quarrying, and to avoid unnecessarily stymying economic development, or delivering economically inefficient outcomes for Otago.