

Section 79 Review of the Clutha District Plan:

Plan Change 40: Stirling Zoning

November 2017

1. INTRODUCTION

The Clutha District Council's District Plan (CDP), prepared under the Resource Management Act 1991 (the Act), was publicly notified on 14 January 1995. On 30 June 1998 it became one of the first resource management plans in the country to be deemed operative. Early in 2007, work on the review of the District Plan commenced. At that time, Council was required to undertake a full review of the Plan as required by section 79(2) of the Act. However changes to the Act in 2010 removed the need for an overall review of the Plan after ten years and replaced it with a requirement to review any provisions that have not already gone through a review or plan change within the last ten years. For a number of reasons, in particular changing government policy and uncertainty around the review of Otago Regional Policy Statement ("RPS") (now complete), Council decided to adopt that approach. As a result, Council is undertaking a number of plan changes as each section is reviewed.

The first four of these plan changes addressed the energy section; the biodiversity management provisions; the natural hazard provisions and the Public Works and Network Utilities Section of the District Plan.

This plan changes deals with urban land supply issues in Stirling and is considered in conjunction with plan changes for Milton and Balclutha.

2. THE PLAN CHANGE

As a part of the District Plan review process, Council has undertaken a review of the current industrial and residential zoning in the Balclutha, Milton and Stirling areas. The purpose of the review was to understand the available capacity of residential and industrial land within these communities of the District and to address any shortfall if necessary. The recently gazetted National Policy Statement on Urban Development Capacity 2016 requires Council to ensure that there is adequate residential and business land development capacity within the District. Council also considers it important that such development capacity is available so that the District can continue to attract people and businesses without compromising the amenity values of our urban areas. This plan change is also an opportunity to formalise the existing zonings to better reflect what some land is currently being used for. Council wants to ensure communities have the appropriate provisions in place that allow us to grow sustainably in the future.

This plan changes relates to Stirling and identifies both new Transitional and Urban Resource Areas, to allow for residential development, and Industrial Resource Area zones within the town. The new Industrial zonings merely reflect existing industrial development. The Plan Change also introduces a 'Noise Control Boundary' (NCB) around the Fonterra Stirling Dairy Factory site along with some associated planning provisions.

The purpose of the NCB is to provide a specific noise management regime for the Stirling dairy factory and to address the potential for reverse sensitivity effects. Despite being a long-established activity, and being protected by existing use rights, there is the real possibility that the dairy factory could be constrained by new residential development in the neighbourhood. The current District Plan requires the factory to comply with the maximum noise limits at the notional boundary of any new residential dwelling in the Rural Resource Area. The proposed NCB will enable the factory to operate at its current level without the threat of that constraint from future activities. A number of amendments to the policy

framework and rules is required to give effect to this. These have been informed by reports from Planz Consultants and Marshall Day Acoustics, on behalf of Fonterra. Council had essentially adopted most of the recommendations and analysis provided in these reports and the reports form part of the Plan Change documentation and rationale accordingly.

The Plan Change also takes the opportunity to update the noise standards referred to in the plan and to clarify the link between residential development in the Rural Resource Area and the existing Noise Nuisance Area boundary shown on some of the planning maps.

The proposed rezonings are shown in the attached documents and relate to the following land:

Planning Map U46 Stirling North:

- Rezone part of Lots 20-25 DP 2254 from Rural Resource Area to Transitional Resource Area.
- Rezone Lots 1-3 DP 368578 from Rural Resource Area to Urban Resource Area.

Planning Map U46 Stirling North and U47 Stirling South:

- Rezone part of Lot 39 DP 2254, Part Lot 40 DP 2254, Lot 8 DP 9591, Lot 40 DP 2254, Part of Lots 41 and 42 DP 2254 from Rural Resource Area to Transitional Resource Area

Planning Map U47 Stirling South:

- Rezone Lot 1 DP 394882 and Lot 2 DP 394882 from Rural Resource Area to Transitional Resource Area.
- Rezone Lot 1 DP 301857, Lots 1 and 2 DP 394882 from Rural Resource Area to Industrial Resource Area.
- Rezone Part Lot 1 DP 2254 from Rural Resource Area to Urban Resource Area.
- Establish a 'Noise Control Boundary' around the Fonterra Stirling Dairy Factory site as shown on the planning map U47 Stirling South.

The proposed planning provisions associated with the NCB are as follows:

Section 3.13 Noise

(i) Amend Rule NSE.1 Noise Measurement (i) as follows:

(i) Except where otherwise stated, all noise will be measured and assessed in accordance with the requirements of ~~NZS 6801:1991 Measurement of Sound and NZS 6802:1991 Assessment of Environmental Sound.~~ New Zealand Standards NZS 6801:2008 "Acoustics – Measurement of environmental sound" and assessed in accordance with NZS 6802:2008 "Acoustics – Environmental noise".

Section 4.4 Industrial Resource Area

- (i) Amend Section Rule IND.2 by adding the following rule:

(2) On the Stirling Dairy Manufacturing Site located on Pt Lot 1 DP 2254, Lot 2 DP 19577, Lot 3 DP 18037, Pt Section 382R, Lot 1 DO 24460 and Lot 1 DP 301857, noise from operations, including all ancillary equipment, maintenance activities, and operation of all vehicles on site (including those entering and exiting the site), shall not exceed the following limits when measured at or beyond the Noise Control Boundary:

Weekdays and Weekends

7am – 10pm 55dB_{L_{Aeq}} (15 min)

10pm – 7am 45 dB L_{Aeq} (15 min) and 75 LAF_{max}

Section 4.1 Rural Resource Area

- (i) Add the following new Objective and Policy:

Objective RRA.7

That the ongoing operation of existing farming, rural based or industrial activities located within the Rural Resource Area or in other adjoining resource areas is not compromised by the establishment, upgrade or extension of sensitive activities within the Rural Resource Area.

Policy RRA.13

To ensure that the establishment, upgrade or extension of sensitive activities are located and/or designed so that they will not be significantly affected by existing activities that generate noise, dust, traffic and odour effects so that reverse sensitivity effects will not occur.

- (ii) Amend Rule RRA.3 Residential activities (iv) discretionary activities by amending subsection (b) as follows:

(b) Any residential activity which is to locate within 1 kilometre of any activity that:

- generates excessive or nuisance noise types
- is defined as an intensive farming activity
- requires a licence in terms of Section 15 of the Dangerous Goods Act 1974
- requires a licence as an offensive trade within the meaning of the Third Schedule of the Health Act 1956, or
- uses, produces or stores commercial quantities of hazardous substances

OR any residential activity which is to locate within a “Noise Nuisance Area“ boundary as shown on the planning maps,

is a discretionary activity

...

(iii) Amend Rule RRA.10 Noise Standards by inserting a new subsection (iv) as follows:

(iv) Any new sensitive activity, or additions that increase the floor area of an existing sensitive activity located within the Noise Control Boundary associated with the Stirling Dairy Manufacturing Site shall be constructed to achieve an internal design level of 35dB_{L_{Aeq}}(1hr) in all habitable rooms with the windows closed.

Any application for non-compliance with this rule shall only require written approval from the operator of the Stirling Dairy Manufacturing Site.

(iv) Renumber existing Rule RRA.10(iv) as (v).

3. COMPLIANCE WITH THE STATUTORY PROCESS

Any alteration made to the District Plan pursuant to section 79 of the Act must be undertaken in accordance with the First Schedule of the Act. Section 74 of the sets out the matters that must be considered by Council when preparing a plan change. Section 74(1) requires that the change must be prepared in accordance with its functions under Section 31, the provisions of Part II of the Act, its duty under Section 32, and any regulations. Section 74(2) sets out a number of additional matters that Council is required to have regard to. The matters to be addressed are listed below:

(a) Section 31 – Functions of Council

The changes are prepared in accordance with Council's functions in relation to controlling the effects of the use, development or protection of land.

(b) Section 32 – Consideration of Alternatives, Costs and Benefits

An evaluation report under this section must:

(a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and

(b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by —

(i) identifying other reasonably practicable options for achieving the objectives; and

(ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and

(iii) summarising the reasons for deciding on the provisions; and

(c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.

An assessment under subsection b)(ii) above must:

(a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for;

(i) economic growth that are anticipated to be provided or reduced; and

(ii) employment that are anticipated to be provided or reduced; and

(b) if practicable, quantify the benefits and costs referred to in paragraph (a); and

(c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

Council has complied with this duty. A report summarizing the evaluation must be made available for public inspection at the same time as notification of the proposed plan section.

The summary of that evaluation is included in this document at section 7. Case law has held that a plan change only needs to be preferable in resource management terms to the existing plan to be necessary and the most appropriate way to achieve the purpose of the Act to pass the threshold test (see Marlborough Ridge Ltd v Marlborough DC C111/97 2NZED 751.) Council has concluded that the proposed rezonings are preferable in resource management terms because of the need for additional industrial and residential land within the urban areas of the District and the locational attributes of the sites proposed to be rezoned.

(c) Provisions of Part II of the Act

The Plan Change has been prepared in accordance with Council's functions and the provisions of Part II of the Act. Council considers that the Plan Change provides for these matters and promotes the sustainable management of the Clutha District's natural and physical resources.

(d) Policy Statements and Plans

In preparing this Plan Change Council has had regard to the following:

- a. The National Policy Statement on Urban Development Capacity 2016
- b. The Otago Regional Council Regional Policy Statement and the proposed Otago Regional Council Regional Policy Statement
- c. Kai Tahu Ki Otago Natural Resource Management Plan and Te Tangi a Taurira – The Cry of the People
- d. The New Zealand Heritage List/Rārangi Kōrero of the Heritage New Zealand Pouhere Taonga Act 2014
- e. The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

The Plan Change is considered to be consistent with these documents. The key elements of these documents are set out below.

(e) *Plans and Proposed Plans of Adjacent Councils*

Where appropriate Council has considered how adjacent Councils have dealt with similar issues through their district plans and attempted to ensure consistency across territorial authority boundaries.

(f) *Trade Competition*

Council has not had regard to trade competition in preparing this Plan Change.

4. CONSULTATION

Clause 3 of the First Schedule of the Act requires Council to consult with the following parties:

- (a) the Minister for the Environment; and
- (b) those other Ministers of the Crown who may be affected by the policy statement or plan; and
- (c) local authorities who may be so affected; and
- (d) the tangata whenua of the area who may be so affected, through iwi authorities; and
- (e) any customary marine title group in the area.

In this case, no Ministers of the Crown, tangata whenua, or other local authorities are considered affected by the proposed Plan Change.

Council-lead consultation with affected landowners, including neighbours, has been carried out. This involved a two-stage process, whereby the first stage involved identifying potential areas and canvassing landowners as to their interest in rezoning their land. Following initial feedback on this and additional areas identified for rezoning, a wider consultation was carried out with directly affected landowners as well as those adjacent to the areas with potential rezoning opportunities. Feedback has been positive towards rezoning.

Fonterra, the owner of the Stirling Dairy Manufacturing Site, also consulted with local residents with respect to a draft NCB (which at that time included a number of properties to the west of the site), on the 19th July 2016. Invitations were sent out to 35 properties and a total of seven members of the community attended the meeting. Feedback from attendees highlighted concerns with the impact on property values. This led to Fonterra reassessing their options for reducing noise emissions from the site. As a result of further mitigation work occurring, the NCB has been reduced to exclude residential properties to the west.

The meeting also dealt with concerns from residents at 4 and 6 Perkins Street in relation to a boiler alarm being activated when the site was not operational. While this is not particularly relevant to this process, the issue of concern has since been rectified.

KiwiRail was also consulted. They noted that noise sensitive activities should be controlled where they are located adjacent to the rail designation because of the potential for reverse sensitivity issues to arise. They promoted a set of provisions to address this issue.

5. THE NATIONAL POLICY STATEMENT ON URBAN DEVELOPMENT CAPACITY 2016

5.1 Background

Section 75(3) of the RMA requires that district plans give effect to any NPS. The National Policy Statement on Urban Development Capacity 2016, developed by the Ministry for the Environment and the Ministry of Business, Innovation and Employment, is relevant to the assessment of urban land supply issues within the Clutha District.

The NPS states that *“local authorities need to provide for the wellbeing of current generations, and they must also provide for the wellbeing of the generations to come”*. The overarching theme running through the NPS is that *“planning decisions must actively enable development in urban environments, and do that in a way that maximises wellbeing now and in the future.”*

The preamble provides an overview of the direction and outcomes sought by the NPS, with the key elements set out below:

“This national policy statement provides direction to decision-makers under the Resource Management Act 1991 (RMA) on planning for urban environments. It recognises the national significance of well-functioning urban environments, with particular focus on ensuring that local authorities, through their planning, both:

- enable urban environments to grow and change in response to the changing needs of the communities, and future generations; and*
- provide enough space for their populations to happily live and work. This can be both through allowing development to go “up” by intensifying existing urban areas, and “out” by releasing land in greenfield areas.*

This national policy statement covers development capacity for both housing and business, to recognise that mobility and connectivity between both are important to achieving well-functioning urban environments. Planning should promote accessibility and connectivity between housing and businesses. It is up to local authorities to make decisions about what sort of urban form to pursue.

...

This national policy statement requires councils to provide in their plans enough development capacity to ensure that demand can be met. This includes both the total aggregate demand for housing and business land, and also the demand for different

types, sizes and locations. This development capacity must also be commercially feasible to develop, and plentiful enough to recognise that not all feasible development opportunities will be taken up. This will provide communities with more choice, at lower prices.

Development capacity must be provided for in plans and also supported by infrastructure. Urban development is dependent on infrastructure, and decisions about infrastructure can shape urban development. This national policy statement requires development capacity to be serviced with development infrastructure, with different expectations from this infrastructure in the short, medium and long-term. It encourages integration and coordination of land use and infrastructure planning. This will require a sustained effort from local authorities, council-controlled organisations, and infrastructure providers (including central government) to align their intentions and resources.

Another key theme running through the national policy statement is for planning to occur with a better understanding of land and development markets, and in particular the impact that planning has on these. This national policy statement requires local authorities to prepare a housing and business development capacity assessment and to regularly monitor market indicators, including price signals, to ensure there is sufficient development capacity to meet demand. Local authorities must respond to this information. If it shows that more development capacity needs to be provided to meet demand, local authorities must then do so. Providing a greater number of opportunities for development that are commercially feasible will lead to more competition among developers and landowners to meet demand.”

Not all provisions of the NPS apply to the Clutha District, which is considered a low growth area. While local authorities that have a high-growth urban area are expected to meet all of the policy requirements, the Clutha District Council must meet all of the objectives but only policies PA1 - PA4.

5.2 NPS Objectives

The following provides a broad analysis of how the plan change gives effect to the objectives of the NPS.

Objective Group A – Outcomes for planning decisions

OA1: Effective and efficient urban environments that enable people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing.

It is considered that the operative CDP already gives effect to this objective. However, the plan change will ensure that the needs of future generations are recognised and provided for by providing adequate land for development in appropriate and efficient locations.

OA2: Urban environments that have sufficient opportunities for the development of housing and business land to meet demand, and which provide choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations, working environments and places to locate businesses.

The current CDP provides opportunities for the development of housing and business activities through Urban, Rural Settlement, Transitional and Industrial zonings and associated provisions. In relation to housing development, the Urban Resource Area contains the following policy:

“POLICY URB.5

To maximise private choice of residential dwelling types and location.

Explanation

A mixture of housing types and other forms of residential accommodation is desirable in order to promote a more balanced community structure. With performance standards mitigating any adverse effects, there is little justification for restricting certain types of development (e.g. multi-unit housing) in these areas.”

This is provided for in the rule structure by no limits or controls being applied to section size. All types of housing are enabled as a consequence. The Rural Settlement Resource Area relates to un-serviced areas and enables development at 1600m², provided waste and water issues can be dealt with. The Transitional Resource Area are zones that identify land of the fringes of existing urban areas that are suitable for development but can only be developed at a residential scale when the appropriate infrastructure is put in place. Otherwise development density is set at 4000m².

However, the last few years has seen an increase in more intensive development of existing Transitional Resource Areas in the district (for example, Wilson Road in south Balclutha and Plantation Heights on Johnston Road in north Balclutha). Hence the objective of the proposed plan change for Balclutha (PC 39) is to replace this lost residential capacity to provide for the needs of current and future generations. However, Council also considers it important to provide a range of options and opportunities, and considers it is also appropriate to provide for these in the district’s smaller communities, particularly those located in close proximity to Balclutha, such as Stirling. On that basis, the proposed plan change meets the objective in relation to residential housing.

Business development has also been provided for within these areas on a relatively flexible basis, provided adverse effects are adequately managed. Industrial activities are specifically provided for in the Industrial Resource Areas, the majority of which have made provision for the expansion of existing activities.

This particular District Plan has been operative since 1998 and since then very little additional land has been rezoned for industrial purposes. Much of the area originally made available for expansion has now been developed, and businesses have often expanded into adjoining land that is not appropriately zoned. This is the case in Stirling. The proposed industrial rezoning seeks to address this and thus enable existing activities to operate without undue constraint because of unfavourable zone provisions. On that basis, the proposed plan change meets the objective in relation to industrial business activities.

OA3: Urban environments that, over time, develop and change in response to the changing needs of people and communities and future generations.

As noted above, the current CDP provides opportunities for the development of housing and business activities through a number of zones (Urban, Rural Settlement, Transitional and

Industrial Areas) and their associated provisions. The flexibility already provided within these provisions give effect to this objective.

Objective Group B – Evidence and monitoring to support planning decisions

OB1: A robustly developed, comprehensive and frequently updated evidence base to inform planning decisions in urban environments.

Councils resource consent and building consent data bases provides comprehensive and up-to-date information on the development of Stirling's existing residential and business capacity. Assessing the rate of uptake of the existing capacity from these data bases has enabled Council to determine the potential for future uptake. This can then be assessed against the remaining land that is appropriately zoned and without constraint.

However, it is anticipated that this method will be revised as further guidance becomes available on implementing the NPS. Methods will be updated as required, and regular assessments made, as required by the NPS.

Objective Group C – Responsive planning

OC1: Planning decisions, practices and methods that enable urban development which provides for the social, economic, cultural and environmental wellbeing of people and communities and future generations in the short, medium and long-term.

OC2: Local authorities adapt and respond to evidence about urban development, market activity and the social, economic, cultural and environmental wellbeing of people and communities and future generations, in a timely way.

As highlighted under OB1, Council already achieves these objectives through responding to the trends that become apparent from its resource consent and building consent data bases. This plan change is partly in response to the fact that significant amounts of Transitional Resource Area land around nearby Balclutha has recently been developed. It is now appropriate to plan for the needs of future generations and to provide for a range of choices in location and type of living and working environments, including settlements near Balclutha such as Stirling.

Objective Group D – Coordinated planning evidence and decision-making

OD1: Urban environments where land use, development, development infrastructure and other infrastructure are integrated with each other.

The provision of more Transitional zoned land enables Council to determine the capacity and integration of infrastructure now and into the future.

OD2: Coordinated and aligned planning decisions within and across local authority boundaries.

This objective is not particularly relevant to a small rural authority such as Clutha District.

5.3 NPS Policies

The relevant NPS policies are as follows:

PA1: Local authorities shall ensure that at any one time there is sufficient housing and business land development capacity according to the table below:

Short term: Development capacity must be feasible, zoned and serviced with development infrastructure.

Medium term: Development capacity must be feasible, zoned and either: serviced with development infrastructure, or the funding for the development infrastructure required to service that development capacity must be identified in a Long Term Plan required under the Local Government Act 2002.

Long term: Development capacity must be feasible, identified in relevant plans and strategies, and the development infrastructure required to service it must be identified in the relevant Infrastructure Strategy required under the Local Government Act 2002.

PA2: Local authorities shall satisfy themselves that other infrastructure required to support urban development are likely to be available.

PA3: When making planning decisions that affect the way and the rate at which development capacity is provided, decision-makers shall provide for the social, economic, cultural and environmental wellbeing of people and communities and future generations, whilst having particular regard to:

- a) *Providing for choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations, working environments and places to locate businesses;*
- b) *Promoting the efficient use of urban land and development infrastructure and other infrastructure; and*
- c) *Limiting as much as possible adverse impacts on the competitive operation of land and development markets.*

PA4: When considering the effects of urban development, decision-makers shall take into account:

- a) *The benefits that urban development will provide with respect to the ability for people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing; and*
- b) *The benefits and costs of urban development at a national, inter-regional, regional and district scale, as well as the local effects.*

In the NPS, 'short term' means within the next three years, 'medium term' means between three and ten years and 'long term' means between ten and thirty years. 'Feasible' is defined as: 'that development is commercially viable, taking into account the current likely costs, revenue and yield of developing'.

Considered in the whole, the proposed Plan Change gives effect to this raft of policies. The current CDP has been operative for nearly 20 years, the long-term planning time frame under the NPS. The capacity provided in CDP has not yet been exhausted and the proposed re-zonings under this plan change will ensure that long term supply is maintained. The location of the proposed areas adjoins existing residential (either urban or transitional areas)

and industrial areas which ensures efficiency and integration of services, while minimising the effects of urban development. The provisions of the Transitional Resource Area enable development at a density where public servicing is not required but which must be designed to ensure that higher density can occur in the future, if and when the market develops.

6. OPERATIVE AND PROPOSED REGIONAL POLICY STATEMENT

The Operative and Proposed RPS highlight the resource management issues of the region, and clarify roles and responsibilities of the ORC and territorial authorities. The operative RPS (1998) directs strategic planning at a regional level. The most relevant provisions of the operative and proposed RPS are set out below.

In terms of the built environment, the relevant operative Otago Regional Policy Statement (1998) policy framework is as follows:

Objective 9.4.1 To promote the sustainable management of Otago's built environment in order to:

- (a) Meet the present and reasonably foreseeable needs of Otago's people and communities; and*
- (b) Provide for amenity values, and*
- (c) Conserve and enhance environmental and landscape quality; and*
- (d) Recognise and protect heritage values.*

Objective 9.4.2 To promote the sustainable management of Otago's infrastructure to meet the present and reasonably foreseeable needs of Otago's communities.

Objective 9.4.3 To avoid, remedy or mitigate the adverse effects of Otago's built environment on Otago's natural and physical resources.

Policy 9.5.2 To promote and encourage efficiency in the development and use of Otago's infrastructure through:

- (a) Encouraging development that maximises the use of existing infrastructure while recognising the need for more appropriate technology; and*
- (b) Promoting co-ordination amongst network utility operators in the provision and maintenance of infrastructure; and*
- (c) Encouraging a reduction in the use of non-renewable resources while promoting the use of renewable resources in the construction, development and use of infrastructure; and*
- (d) Avoiding or mitigating the adverse effects of subdivision, use and development of land on the safety and efficiency of regional infrastructure.*

Policy 9.5.3 To promote and encourage the sustainable management of Otago's transport network through:

- (a) Promoting the use of fuel efficient modes of transport; and*
- (b) Encouraging a reduction in the use of fuels which produce emissions harmful to the environment; and*

(c) Promoting a safer transport system; and

(d) Promoting the protection of transport infrastructure from the adverse effects of land use activities and natural hazards.

Policy 9.5.4 To minimise the adverse effects of urban development and settlement, including structures, on Otago's environment through avoiding, remedying or mitigating:

(a) Discharges of contaminants to Otago's air, water or land; and

(b) The creation of noise, vibration and dust; and

(c) Visual intrusion and a reduction in landscape qualities; and

(d) Significant irreversible effects on:

(i) Otago community values; or

(ii) Kai Tahu cultural and spiritual values; or

(iii) The natural character of water bodies and the coastal environment; or

(iv) Habitats of indigenous fauna; or

(v) Heritage values; or (vi) Amenity values; or

(vii) Intrinsic values of ecosystems; or

(viii) Salmon or trout habitat.

Policy 9.5.5 To maintain and, where practicable, enhance the quality of life for people and communities within Otago's built environment through:

(a) Promoting the identification and provision of a level of amenity which is acceptable to the community; and

(b) Avoiding, remedying or mitigating the adverse effects on community health and safety resulting from the use, development and protection of Otago's natural and physical resources; and

(c) Avoiding, remedying or mitigating the adverse effects of subdivision, land use and development on landscape values.

There are a number of key themes running through this policy framework which include providing for amenity, in particular amenity levels acceptable to the community; providing for heritage values, environmental and landscape quality; efficiency in the development and use of infrastructure; and minimising the adverse effects of urban development. The use of zoning (in this case transitional and industrial zones) and the location of the proposed rezonings will ensure these outcomes are achieved.

The relevant provisions within the Proposed RPS (incorporating the ORC Decisions) are as follows:

Objective 4.5 Urban growth and development is well designed, reflects local character and integrates effectively with adjoining urban and rural environments

Policy 4.5.1 Managing for urban growth and development

Manage urban growth and development in a strategic and co-ordinated way, by all of the following:

- a) Ensuring there is sufficient residential, commercial and industrial land capacity, to cater for the demand for such land, over at least the next 20 years;*
- b) Coordinating urban growth and development and the extension of urban areas with relevant infrastructure development programmes, to provide infrastructure in an efficient and effective way;*
- c) Identifying future growth areas and managing the subdivision, use and development of rural land outside these areas to achieve all of the following:*
 - i. Minimise adverse effects on rural activities and significant soils;*
 - ii. Minimise competing demands for natural resources;*
 - iii. Maintain or enhance significant biological diversity, landscape or natural character values;*
 - iv. Maintain important cultural or historic heritage values;*
 - v. Avoid land with significant risk from natural hazards;*
- d) Considering the need for urban growth boundaries to control urban expansion;*
- e) Ensuring efficient use of land;*
- f) Encouraging the use of low or no emission heating systems;*
- g) Giving effect to the principles of good urban design in Schedule 5;*
- h) Restricting the location of activities that may result in reverse sensitivity effects on existing activities.*

Policy 4.5.2 Planned and coordinated urban growth and development

Where urban growth boundaries or future urban development areas, are identified in a district plan, control the release of land within those boundaries or areas, by:

- a) Staging development using identified triggers to release new stages for development; or*
- b) Releasing land in a way that ensures both:*
 - i. a logical spatial development; and*
 - ii. efficient use of existing land and infrastructure before new land is released; and*
- c) Avoiding urban development beyond the urban growth boundary or future urban development area.*

Policy 4.5.7 Integrating infrastructure with land use

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

- a) Recognising the functional needs of infrastructure of regional or national importance;*

- b) Locating and designing infrastructure to take into account all of the following:*
- i. Actual and reasonably foreseeable land use change;*
 - ii. The current population and projected demographic changes;*
 - iii. Actual and reasonably foreseeable change in supply of, and demand for, infrastructure services;*
 - iv. Natural and physical resource constraints;*
 - v. Effects on the values of natural and physical resources;*
 - vi. Co-dependence with other infrastructure;*
 - vii. The effects of climate change on the long term viability of that infrastructure; viii. Natural hazard risk.*
- c) Locating growth and development:*
- i. Within areas that have sufficient infrastructure capacity; or*
 - ii. Where infrastructure services can be upgraded or extended efficiently and effectively;*
- d) Coordinating the design and development of infrastructure with land use change in growth and redevelopment planning.*

Objective 5.3 4.3 Sufficient land is managed and protected for economic production

(Issue: Existing activities are susceptible to reverse sensitivity effects, particularly when adjoining land use changes.)

...

Policy 5.3.11 Rural activities

Manage activities in rural areas, to support the region's economy and communities, by all of the following:

...

c) Restricting the establishment of activities in rural areas that may lead to reverse sensitivity effects; and

...

Policy 5.3.4 Industrial land uses

Manage the finite nature of land suitable and available for industrial activities, by all of the following:

a) Providing specific areas to accommodate the effects of industrial activities;

b) Providing a range of land suitable for different industrial activities, including land-extensive activities;

c) Restricting the establishment of activities in industrial areas that may result in:

i. Reverse sensitivity effects; or

ii. Inefficient use of industrial land or infrastructure.

These policies are subject to appeal so are likely to change to some degree. The themes running through this policy framework reflect the NPS and are similar in many ways to the operative RPS. They also have a strong focus on reverse sensitivity issues and require specific provision for industrial activities. As assessed above, the proposed plan change gives effects to these documents and it is considered that it also gives effect to the proposed RPS. The use of the NCB and the associated provisions are also clearly anticipated by, and consistent with, the approach to reverse sensitivity in the proposed RPS.

7. SUMMARY REPORT OF SECTION 32 EVALUATION

Before a proposed plan change is publicly notified, Section 32 of the Resource Management Act requires an evaluation that must examine:

- The extent to which the objectives (purpose) of the proposal are the most appropriate way to achieve the purpose of the Act.
- Whether the provisions in the proposal are the most appropriate to achieve the objective (purpose) of the proposal by:
 - Consideration of other reasonably practicable options for achieving the coordinated urban growth and servicing of the site.
 - Assessment of the efficiency and effectiveness of the provisions in achieving the objective of the proposal. This assessment should identify the benefits and costs of environmental, economic, social and cultural effects, including opportunities for economic growth and employment.
 - Whether the provisions in the proposal are the most appropriate to achieve the objectives of the existing District Plan, to the extent that those are relevant.
- Assessment of the risks of acting or not acting.

7.1 Are the objectives of the proposal the most appropriate way to achieve the purpose of the Act? (s32(1)(a))

The proposed Plan Change, in respect to the provision of more industrial, transitional and urban zoned land, does not seek to alter any existing objectives of the Plan. In circumstances where objectives are not sought to be altered, s32(6)(b) states that references to 'objectives' means the 'purpose' of the proposal.

The purpose of this Plan Change (as set out on Section 2 above) is to ensure that there is adequate residential and business land development capacity within Stirling and the wider Clutha District in accordance with the NPS and the RPS. This plan change is also an opportunity to rezone some areas to better reflect and recognise current land used.

Accordingly, the evaluation must consider the extent to which the inclusion of the rezoned areas in the District Plan best achieves the purpose of the plan change, and ultimately the purpose of the Act.

The purpose of the Act is to promote sustainable management of natural and physical resources.

This means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while:

(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

In summary, the zone changes proposed achieve the purpose of the Act by ensuring there is adequate land available for residential and industrial purposes in Stirling and the wider Clutha District to meet Council's responsibilities under the NPS and PRPS. In so doing the plan change enables the community to provide for its economic wellbeing, and thereby contributes to its social wellbeing.

The objective of the NCB and associated provisions provide for a mechanism to protect the Stirling Dairy Manufacturing Site against reverse sensitivity effects and introduces an agreed noise limit to protect the amenity of the surrounding rural/urban environment. The site is a significant employer and contributor to the local and regional economy and to the district's social wellbeing. It is therefore vital to ensure it is given appropriate consideration, and afforded a certain level of protection from activities that may impact on its ability to operate efficiently. The proposed objective works in tandem with the existing district plan policy framework and provides a balance by requiring sensitive activities to avoid compromising existing industrial activities.

Accordingly, the NCB approach also achieves the purpose of the Act as outlined above.

7.2 Examine whether the provisions in the proposal are the most appropriate to achieve the objective of the proposal by identifying:

7.2.1 If there are other reasonably practicable options for achieving the proposal (s32(1)(b)(i)).

The only other practicable options for achieving the proposal are:

- Maintaining the status quo i.e. maintain the current level of urban and industrial zoned land and no NCB around the Stirling Dairy Manufacturing Site;
- Alternative locations for rezoning.
- Rezone the Transitional Resource Areas as Urban Resource Area i.e. remove the restriction on high density development, requiring provision of infrastructure.
- Use the resource consent process to exceed noise limits

- Use of setbacks to the Stirling Dairy Manufacturing Site

These options are discussed as follows:

Maintain the Status Quo

Under the status quo option, there is likely to be enough land to provide for Stirling's and the wider Clutha District's needs in the short term and possibly even the medium term. However, identifying areas appropriate for development early in the planning process better enables the integration and interconnectivity of infrastructure. This will ensure that disjointed suburbs and industrial areas are not created due to a lack of long term strategic planning. Furthermore, there is a long lead in time before sections come onto the market. Council is of the view that it must be proactive and think long term in relation to this issue.

Also, a number of the proposed re-zonings recognise that the current zoning does not reflect the existing environment. This is not considered efficient and creates uncertainty for the business operators in these areas, particularly when expansion involving the resource consent process is required.

In terms of the NCB approach, the existing rules will maintain amenity of the surrounding environment but there is the potential that the site could become constrained by the development of new sensitive activities. Hence maintaining the status quo will not avoid the potential for reverse sensitivity effects and does not, therefore, achieve the purpose of the Act.

Alternative Locations

There are other possible locations to create new urban, transitional and industrial zonings within the Stirling and wider Clutha District environment. However, topography and lack of services generally limits these areas. The areas proposed for rezoning under this plan change either adjoin similar zones or recognise the existing underlying land uses. Hence, the proposed rezonings will have little effect on the character and amenity of the location within in which they are situated and will ensure access and servicing can be integrated with the existing public networks. Feedback from land owners in these areas also indicates a level of support for the proposals.

Rezone urban rather than transitional for residential development areas.

This option would enable development at a residential density without any consideration of whether the necessary infrastructure is in place. This is not consistent with either the NPS or the RPS and would not promote sustainable management of Stirling's or the wider Clutha District's urban area.

Use the resource consent process to exceed noise limits

This option would enable conditions to be imposed requiring the factory to mitigate or reduce effects. However, it would not enable protection against reverse sensitivity effects. Hence this option is not considered the most appropriate way to achieve the objective of the proposal or the purpose of the Act.

Use of setbacks to the Stirling Dairy Manufacturing Site

While this would achieve protection from reverse sensitivity, it would be less efficient and involve more cost to sensitive land uses.

Conclusion on Alternatives

While there are other alternatives to the areas proposed for rezoning and the proposed rule changes, and other approaches to reverse sensitivity, including the do nothing option, the proposed Plan Change is considered the most appropriate option to give effect to Council's duty under the NPS and RPS. The areas selected for rezoning will have minimal adverse effects on the environment given their locational attributes. The NCB will likely have less impact on those affected by it than the other potential options.

It is therefore considered that this Plan Change is the most reasonably practicable option to achieve the objective of the proposal.

7.2.2 Assessing the efficiency and effectiveness of the provisions in achieving the objective of the proposal (s32(1)(ii) and s32(2)).

Section 32 of the Act requires consideration of the benefits and costs of the proposal when assessing efficiency and effectiveness. These benefits and costs apply to the proposed provisions in respect of their environmental, social, cultural, and economic effects. Economic effects in particular are required to consider opportunities for economic growth (s32(2)(a)(i) and employment (s32(2)(a)(ii)). All effects are required to be quantified where practicable (s32(2)(b)). The economic costs and benefits have been assessed in the attached report prepared by Rationale Limited, which found that the benefits of rezoning the land from farmland to either residential or industrial outweighs the cost.

Environmental & Cultural

Benefits:

- Urban intensification is enabled in a manner than can be serviced, with development to be at a density that can be adequately managed;
- Urban intensification is enabled in a coherent and connected urban form that is well integrated with the adjoining urban fabric;
- Urban intensification where there will be limited adverse environmental effects;
- Enabling urban expansion into areas where there are no identified sites of cultural, heritage or natural significance;
- Greater certainty, more efficiency and less consenting costs for business on sites where the new zoning will reflect the activities that already occur there.
- Enabling urban expansion into areas where there are no identified natural hazards.
- Greater certainty regarding the standard of noise environment and associated amenity values to be expected around the Stirling Dairy Manufacturing Site;
- New sensitive activities protected from the adverse effects of noise.

Cost

- More difficult to develop alternative locations;
- Visual change in the area where development is enabled, with an associated change in amenity and outlook for existing property owners.

Social & Economic

Benefits:

- Increased enablement of the provision of residential housing to provide choice for those members of the community wanting a new house in Stirling;
- Increased opportunities for economic, and thereby social wellbeing, to be achieved through the provision of more business (industrial) land being made available;
- Increased employment opportunities through the provision of more business land enabling existing business to expand and new business to develop by reducing regulatory impediments;
- Increased economic return to the landowners and wider community (see Rationale report).
- Increased certainty with the operation of the Stirling Dairy Manufacturing Site which in turn provides for economic certainty for employees and businesses the area.

Costs:

- Loss of layout flexibility if infrastructure not provided straight away;
- Development timing of some lots may be delayed until necessary infrastructure provided;
- Potentially higher holding costs on the land until it is developed.
- NCB could potentially lead to greater acoustic insulation costs for developers of sensitive activities

Efficiency and Effectiveness of Provisions

Overall, the provisions are assessed as being both the most efficient and effective at recognising and providing for integrated development of additional residential and industrial land in Stirling and the wider Clutha District and for protecting the Stirling Dairy Manufacturing Site from reverse sensitivity effects.

7.2.3 Summarising the reasons for deciding on the provisions (s32(1)(b)(iii)).

The Plan Change is considered the most appropriate and effective approach to ensure that there is adequate residential and business land development capacity within Stirling and the wider Clutha District in accordance with the NPS and the RPS, and for protecting the Stirling Dairy Manufacturing Site from reverse sensitivity effects.

7.2.4 Risk of acting or not acting (s32(2)(c))

The Act requires assessment of the risk of acting or not acting if there is uncertain or insufficient information. While Stirling and the wider Clutha District is a low growth area, and information about future uptake of residential and industrial land is uncertain, there is no reason for not acting because of this. Council has a duty under the NPS and the RPS to provide residential and business land for the needs of current and future generations. There is often a long lead in time before land comes onto the market and as a consequence, Council considers land appropriate for such development should be signalled early in the planning process. This will enable an appropriate level of integration with adjoining land uses and infrastructure development.

If Council does not undertake the proposed plan change now, the risk of not acting is that development may occur on an ad hoc basis which could lead to inefficient site-by-site infrastructure solutions.

With respect to the NCB, the risk of not acting is that a new sensitive activity could establish that could significantly constrain the operation of the Stirling Dairy Manufacturing Site. This could result in considerable adverse social and economic effects for the area.

7.3 Examine whether the provisions in the proposal are the most appropriate to achieve the objectives of the existing District Plan to the extent that those are relevant (s32(3))

The relevant objectives and policies are set out:

Urban Resource Area

OBJECTIVE URB.1

To manage the development of the urban area in order to; a) provide a framework which enables people and communities to provide for their social, economic and cultural wellbeing, and their health and safety, while b) maintaining and where possible enhancing the environmental quality of particular environments within the urban area, and c) avoiding, remedying or mitigating any adverse effects on the natural and physical resources of the Urban Resource Area

POLICY URB.5 To maximise private choice of residential dwelling types and location.

Explanation

A mixture of housing types and other forms of residential accommodation is desirable in order to promote a more balanced community structure. With performance standards mitigating any adverse effects, there is little justification for restricting certain types of development (e.g. multi-unit housing) in these areas.

Transitional Resource Area

OBJECTIVE TRA.1

To achieve a density of development which avoids or mitigates adverse effects on water quality and network services.

POLICY TRA.2 To mitigate the effects of having to extend or upgrade public network services into these areas.

Explanation

Upgrading or extending network utility services to supply areas outside the schemes design capacity has the effect of making that resource unsustainable. Those who receive the benefit should bear the cost without the general ratepayer having to contribute.

Industrial Resource Area

OBJECTIVE IND.1

To manage the industrial resource areas so that industrial activities do not adversely effect the amenity values of adjoining resource areas.

OBJECTIVE IND.2

To manage the Industrial Resource Area so that industrial activities are not constrained or limited by the operation of activities that require a higher level of amenity and environmental quality than industrial activities.

The policy framework of the plan encourages maximum choice in the type and location of residential development while ensuring development adequately addresses adverse effects on the environment and is at a density that can be adequately serviced. With respect to industrial development, effects on adjoining zones must be managed while ensuring the operation of industrial activities is not compromised by more sensitive activities. The proposed plan change is considered to be consistent with these objectives and policies.