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Legislative and Policy Framework



2.1 Introduction

The principal statute under which the natural and physical resources of Otago are managed is the Resource Management Act 1991 (the Act), and it is under this Act that this Plan has been developed. The Act also provides for specific policy statements (i.e. regional policy statements) which have an impact on the management of water and water bodies. Some activities are also subject to the specific requirements of other statutes. Many of New Zealand’s statutes reflect international agreements and obligations.

This chapter provides a brief overview of the statutes and other arrangements relevant to the management of water in Otago, and their relationship to this Regional Plan: Water.

2.2 Relationship to other resource management documents

This Regional Plan: Water fits within a framework of international, national, regional and local resource plans and other documents as shown in the following figure:

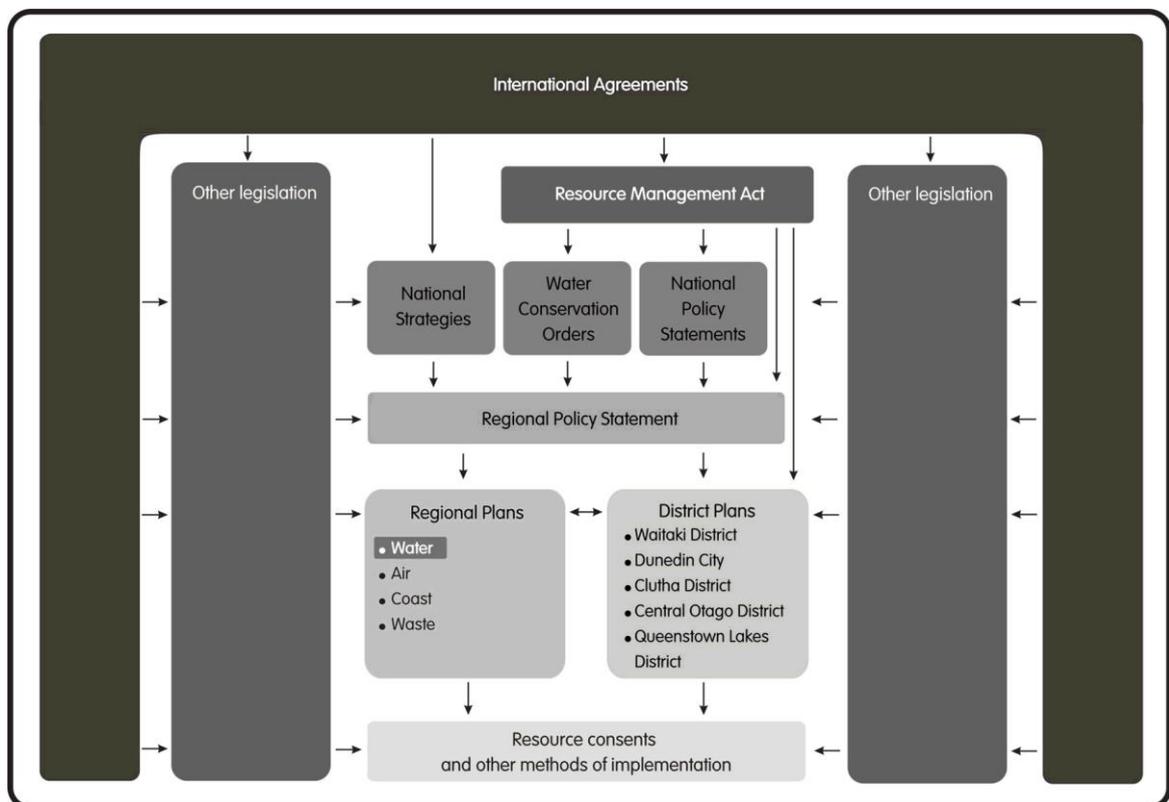


Figure 2: Overview of the resource management framework

Note: For clarity, this diagram presents the resource management framework in a simplified form with key links illustrated.

2.2.1 International agreements and obligations

While the Resource Management Act reflects various international agreements on sustainability, New Zealand is party to several international obligations which have direct implications for the management of water resources, including:

- The Ramsar Agreement¹, which is an inter-governmental treaty for international cooperation for the conservation and wise use of wetland ecosystems.
- The Convention on Biological Diversity², ratified by New Zealand, which has objectives including the conservation of biodiversity.
- The Venice Charter 1966, (ICOMOS)³, also ratified by the New Zealand Government, which is an international charter for the conservation and restoration of monuments and sites of heritage value.

National guidelines or strategies may be issued from time to time by the Government to help meet international obligations. An example is The New Zealand Biodiversity Strategy (see 2.2.4) developed to meet commitments of the international Convention on Biological Diversity.

Principles from these agreements have been taken into account in the preparation of this Regional Plan: Water, to the extent that they are reflected in New Zealand legislation.

2.2.2 Resource Management Act

The Resource Management Act 1991 provides the framework for the management of natural and physical resources in New Zealand. Part II of the Act contains a number of specific provisions which must be taken into account in considering the use, development or protection of Otago's water resources and water bodies.

2.2.2.1 Purpose

Section 5 of the Resource Management Act 1991 states:

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, "sustainable management" 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*

¹ Davis TJ (1994) *The Ramsar Convention Manual – A Guide to the Convention on Wetlands of International Importance especially as Waterfowl Habitat*. Ramsar Convention Bureau, Paris.

² United Nations (1992) *Convention on Biological Diversity, 17 June 1992*. United Nations, New York. Reprinted in *Environmental Policy and Law* 22 (4): 251-258.

³ International Council on Monuments and Sites (1966) *International Charter for the Conservation and Restoration of Monuments and Sites*.

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

This Plan has been prepared to enable the Otago Regional Council to promote the sustainable management of the natural and physical resources of Otago, through the management of water and water bodies, and activities that could affect them.

2.2.2.2 Matters of national importance

Section 6 of the Resource Management Act 1991 identifies matters of national importance that the Otago Regional Council must recognise and provide for in managing the use, development, and protection of natural and physical resources:

- (a) *The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) *The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) *The protection of historic heritage from inappropriate subdivision, use, and development:*
- (g) *The protection of recognised customary activities.*

2.2.2.3 Other matters

Section 7 of the Resource Management Act 1991 identifies a number of additional matters that the Otago Regional Council must have particular regard to in managing the use, development, and protection of natural and physical resources:

- (a) *Kaitiakitanga:*
 - (aa) *The ethic of stewardship:*
- (b) *The efficient use and development of natural and physical resources:*
 - (ba) *The efficiency of the end use of energy:*
- (c) *The maintenance and enhancement of amenity values:*

- (d) *Intrinsic values of ecosystems:*
- (e) *Repealed:*
- (f) *Maintenance and enhancement of the quality of the environment:*
- (g) *Any finite characteristics of natural and physical resources:*
- (h) *The protection of the habitat of trout and salmon:*
- (i) *The effects of climate change:*
- (j) *The benefits to be derived from the use and development of renewable energy.*

2.2.2.4 Treaty of Waitangi

Section 8 of the Resource Management Act 1991 requires that the Otago Regional Council take into account the principles of the Treaty of Waitangi:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

Kai Tahu runanga were consulted throughout the development of this Plan through a Kai Tahu working group. This Plan also includes a chapter outlining the Kai Tahu perspective on, and concerns about, water resources.

Appendix 3 attaches to the Plan statutory acknowledgements for the Otago region, as required by Section 220 of the Ngai Tahu Claims Settlement Act 1998. These acknowledgements comprise a statement made by Ngai Tahu of the particular cultural, spiritual, historic and traditional association of Ngai Tahu with these areas. The inclusion of Appendix 3 is for the purpose of public information only. It does not form part of the Plan.

2.2.3 Other legislation

While this Regional Plan: Water manages the use, development and protection of Otago's water resources under the Resource Management Act 1991, other legislation may have implications for the management of these resources. Activities controlled by this Plan may also require authorisations under other legislation, which include:

- Soil Conservation and Rivers Control Act 1941;
- Historic Places Trust Act 1993;
- Conservation Act 1987 and related legislation;
- Freshwater Fisheries Regulations 1983;
- Lake Wanaka Preservation Act 1973;

- Ngai Tahu Claims Settlement Act 1998;
- Local Government Acts 1974 and 2002;
- Biosecurity Act 1993;
- Building Act 1991 and the Building Code;
- Health Act 1956;
- Transit New Zealand Act 1989;
- Crown Minerals Act 1991; and
- Hazardous Substances and New Organisms Act 1996 and related regulations.

2.2.4 National strategies

At any time the Government may prepare strategies and guidelines concerning the management of resources.

The New Zealand Biodiversity Strategy was published in February 2000 to meet New Zealand's commitment to the international Convention on Biological Diversity (see 2.2.1). The strategy provides a strategic framework for actions to conserve and sustainably use and manage New Zealand's biodiversity.

2.2.5 Water conservation orders and notices

Part IX of the Resource Management Act provides for water conservation orders where there are waters of outstanding amenity or intrinsic value.

The Water Conservation (Kawarau) Order 1997 was enacted on March 17 1997, gazetted on March 20 1997 and came into force on 17 April 1997. The Order has been recognised and provided for within this Plan. The Water Conservation (Mataura River) Order 1997 was gazetted on 10 July 1997 and commenced on 7 August 1991.

Local water conservation notices, under the former Water and Soil Conservation Act, such as those for Lake Tuakitoto and the Pomahaka River have been incorporated into the provisions of this Plan. As stated in section 1.4, these notices formed part of the Transitional Regional Plan and were superseded by the Regional Plan: Water when it became operative.

2.2.6 National policy statements

The Resource Management Act provides for national policy statements to be prepared. Currently there are none that are directly relevant to fresh water. However, as elements of water management will impact on the coastal environment, the New Zealand Coastal Policy Statement (NZCPS) provisions, which relate primarily to the coastal environment, have been considered as necessary.

2.2.7 The Regional Policy Statement for Otago and other regional plans

This Regional Plan: Water must be consistent with the Regional Policy Statement and all other regional plans covering Otago. The Regional Policy Statement is the guiding document for resource management in Otago. It guides all regional and district plans.

Other regional plans for the management of Otago's resources are the Regional Plan: Air, Regional Plan: Coast and Regional Plan: Waste.

The Regional Plan: Air contains rules for activities that this Regional Plan: Water also manages, such as the land application of animal waste and the discharge of pesticides.

The Regional Plan: Coast is concerned with sustainable resource management from the line of mean high water springs to 12 nautical miles offshore (the coastal marine area). This Regional Plan: Water does not deal directly with any matter in the coastal marine area. The boundary between a water body as covered in this Regional Plan: Water and the coastal marine area, is mapped in Schedule 12. In general, all estuaries are within the coastal marine area. The Otago Regional Council intends to ensure that this Plan and the Regional Plan: Coast will be complementary to achieve consistent management for all of Otago's waters.

The Regional Plan: Waste specifically addresses activities including:

- The discharge of hazardous waste;
- The disturbance of land at contaminated sites;
- The operation of facilities for the treatment or disposal of hazardous wastes;
- The discharge of oil or substances containing oil as a dust suppressant on formed roads;
- The discharge of contaminants from landfills (including farm landfills, clean-fill landfills, greenwaste landfills and offal pits); and
- The discharge of contaminants from composting and silage production.

2.2.8 District plans

District plans, developed by territorial local authorities (city and district councils) for the management of land use, may affect the water resource. District plans also cover activities on the surface of water upstream of the coastal marine area. Any district plan within Otago must not be inconsistent with this Plan in regard to any matter of regional significance or for which the regional council has primary responsibility under Part IV of the Act. Some of the policies within Chapters 5 to 10 of this Plan may be implemented through rules in district plans. Formal transfer of some regional council powers and functions to territorial local authorities may occur from time to time.

2.3 Other resource management documents

In accordance with Section 66 of the Act the Otago Regional Council had regard to a variety of additional documents (not illustrated in Figure 2) when preparing this Plan. These included:

- Otago Conservation Management Strategy;
- Kai Tahu ki Otago – Natural Resource Management Plan;
- South Island Eel Management Plan;
- New Zealand Historic Places Register;
- The regional policy statements and regional plans of adjacent jurisdictions; and
- The former Lake Tuakitoto and Lake Hayes management strategies.