

**BEFORE THE HEARING PANEL IN TIMARU**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of the hearing of submissions in relation to the Proposed  
Timaru District Plan

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**LEGAL SUBMISSIONS ON BEHALF OF PRIMEPORT TIMARU LIMITED  
AND TIMARU DISTRICT HOLDINGS LIMITED**

**HEARING STREAM A  
PART 1 – INTRODUCTION AND GENERAL PROVISIONS  
GENERAL DEFINITIONS  
HIGH LEVEL STRATEGIC DIRECTIONS**

Dated: 30 April 2024

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## MAY IT PLEASE THE HEARINGS PANEL

### 1. INTRODUCTION

- 1.1 These legal submissions are presented on behalf of PrimePort Timaru Ltd (**PrimePort**) and Timaru District Holdings Limited (**TDHL**). PrimePort and TDHL are submitters and further submitters (#175 and #186 respectively) on the Proposed Timaru District Plan (**PDP**).<sup>1</sup>
- 1.2 These legal submissions relate to the following matters for Hearing A:
- (a) proposed Strategic Objectives SD-O4, SD-O6, SD-O8(iv) and SD-O10;
  - (b) a new Strategic Objective proposed by Forest and Bird to require adverse effects to be avoided, remedied or mitigated;
  - (c) the proposed definitions of reverse sensitivity, sensitive activity and sensitive environment; and
  - (d) a new definition of risk proposed by the Director General of Conservation.

### 2. OVERVIEW

- 2.1 PrimePort and TDHL have lodged submissions and further submissions with the aim of ensuring that the Port of Timaru (**Port**) and all supporting and related activities occurring within the Special Purpose Port Zone (**PORTZ**) are appropriately recognised and provided for in the PDP.
- 2.2 While many of the notified objectives, policies, rules and other provisions of the PDP are supported by PrimePort and TDHL, there are some that are not appropriate, and these will be addressed during the course of the PDP hearings. The intent is to ensure that the PDP, in its final form, enables the effective and efficient operation of the Port and the supporting and related activities within the PORTZ.
- 2.3 PrimePort and TDHL are calling evidence from:

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<sup>1</sup> TDHL is missing from the list of submission points to be considered in Hearing A on the Council's Hearing A webpage ([www.timaru.govt.nz/services/planning/district-plan/proposed-district-plan/hearings-information/hearing-a](http://www.timaru.govt.nz/services/planning/district-plan/proposed-district-plan/hearings-information/hearing-a)) despite being a further submitter on submissions relating to definitions being considered in Hearing A, particularly the definitions of risk, reverse sensitivity, sensitive activity and sensitive environment.

- (a) Frazer Munro, General Manager of TDHL, who outlines the strategic and regional significance of the Port and the PORTZ. Amongst other things, he will explain why it is vital for the ongoing operations of the Port and supporting and related activities to have the regulatory flexibility, ability and certainty to carry out approved activities, including to develop, relocate, expand, upgrade, or otherwise change permitted activities within the PORTZ without being compromised by the establishment of sensitive activities in the meantime.
- (b) Kim Seaton, Planner, who assesses the provisions and definitions that PrimePort and TDHL have submitted on, and makes recommendations for amendments that she considers to be most appropriate in section 32 terms.

2.4 For the most part, the issues raised by PrimePort and TDHL relevant to Hearing A have been addressed in the Council's section 42A reports. These submissions will briefly comment on these issues. Before doing so, a brief outline of the relevant legal framework and higher order documents is provided below.

### **3. LEGAL FRAMEWORK**

- 3.1 The standard RMA considerations that apply to a district plan review are briefly outlined below.
- 3.2 The purpose of the RMA is to promote the sustainable management<sup>2</sup> of natural and physical resources. Under section 6, identified matters of national importance<sup>3</sup> must be recognised and provided for and, under section 7, particular regard is to be had to listed "*other matters*" which include kaitiakitanga, efficiency, amenity values, and ecosystems. Under section 8, the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) are to be taken into account.
- 3.3 Section 31 provides that a function of territorial authorities is, through the establishment of objectives, policies and methods, to achieve integrated management of the effects of the use, development or protection of land

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<sup>2</sup> As that phrase is defined in s 5(2) of the RMA.

<sup>3</sup> Relating to the natural character of the coastal environment, the protection of outstanding natural features and landscapes, significant indigenous vegetation and habitats, the maintenance and enhancement of public access to the coastal marine area, lakes and rivers, the relationship of Māori and the culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga and the protection of historic heritage and customary rights.

and natural and physical resources. The proposed provisions of the PDP must therefore be designed to accord with (and assist the Council to carry out) its functions so as to achieve the purpose of the RMA.<sup>4</sup>

- 3.4 Under section 32, an evaluation report must examine whether objectives of the PDP are the most appropriate way to achieve the purpose of the RMA, and whether the provisions (policies and other provisions) are the most appropriate way of achieving those objectives. This requires:
- (a) identifying reasonably practicable options and assessing the efficiency and effectiveness of the provisions through identifying, assessing and, if practicable, quantifying the benefits and costs of the environmental, economic, social and cultural effects including opportunities for economic growth and employment; and
  - (b) assessing the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.
- 3.5 The legal framework for district plans is set out in sections 72 to 77 of the RMA. In accordance with section 74, a territorial authority must prepare and change its district plan in accordance with any regulations and must "*have regard to*" the listed instruments, which include any proposed regional policy statement, proposed regional plan, and management plans and strategies prepared under other Acts. It must take into account any relevant planning document recognised by an iwi authority.
- 3.6 Under section 75, a district plan "*must give effect*" to any national policy statement, the New Zealand Coastal Policy Statement, and the regional policy statement and must "*not be inconsistent with*" a water conservation order or a regional plan (for any matter specified in section 30(1)).
- 3.7 Finally, sections 75(1) and 76 contemplate district plan policies implementing objectives and rules implementing policies, with rules thereby achieving the objectives and policies of a plan.
- 3.8 The Environment Court gave a comprehensive summary of the mandatory requirements for district plans in *Colonial Vineyard Ltd v Marlborough*

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<sup>4</sup> See also section 72 of the RMA.

*District Council*.<sup>5</sup> The decision predated the 2013<sup>6</sup> and 2017<sup>7</sup> amendments to the Act coming into effect so must be read subject to the effects of those amendments.<sup>8</sup> Attached as **Appendix 1** is a summary of the statutory requirements based on *Colonial Vineyard*, with relevant 2013 and 2017 updates marked in tracked changes. These provide the legal tests that must be applied when considering submissions and evidence, and making decisions on the PDP.

#### **4. RECOGNITION OF THE PORT IN HIGHER ORDER PLANNING DOCUMENTS**

4.1 The importance of the Port and its associated infrastructure and activities is reflected in national and regional planning documents which the PDP is required to "*give effect to*".<sup>9</sup>

##### **New Zealand Coastal Policy Statement (NZCPS)**

- 4.2 Policy 9 of the NZCPS recognises that a sustainable national transport system requires an efficient national network of safe ports, servicing national and international shipping, with efficient connections with other transport modes, including by:
- (a) ensuring that development in the coastal environment does not adversely affect the efficient and safe operation of these ports, or their connections with other transport modes; and
  - (b) considering where, how and when to provide in regional policy statements and in plans for the efficient and safe operation of ports, the development of their capacity for shipping, and their connections with other transport modes.

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<sup>5</sup> *Colonial Vineyard Ltd v Marlborough District Council* [2014] NZEnvC 55, at [17].

<sup>6</sup> In particular, amendments to section 74(1) (which brought together and clarified the matters a District Plan must be "*in accordance with*"; and sections 32 and 32AA (which replaced the requirements for consideration of alternatives).

<sup>7</sup> In particular, amendments to section 6(h) (which added "*management of significant risks from natural hazards*" to the matters of national importance); section 31(1)(aa) (which added a new function for territorial authorities to ensure sufficient housing and business land development capacity); sections 32 and 32AA (further refinements and clarifications); and section 74(1)(ea) (which added "*National Planning Standards*" to the matters a District Plan must be "*in accordance with*").

<sup>8</sup> It also predated the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 which provides bespoke provisions regarding an intensification streamlined planning process for an intensification planning instrument (IPI) for a "specified territorial authority". As the Timaru District Council is not currently a specified territorial authority, there is no requirement to prepare and notify an IPI for Timaru District.

<sup>9</sup> Section 75(3) RMA.

## Canterbury Regional Policy Statement (CRPS)

4.3 The Port is identified as 'regionally significant infrastructure' in the CRPS.<sup>10</sup> The primary provisions recognising the Port are contained in chapters 8 and 5 of the CRPS.

4.4 Objectives and policies in Coastal Environment Chapter 8 seek:

- (a) that subdivision, use or development does not adversely affect the efficient development and use of regionally significant infrastructure;<sup>11</sup>
- (b) to provide for the Port's efficient and effective development, operation, maintenance and upgrade in the coastal environment;<sup>12</sup>
- (c) to provide for a range of associated activities that have an operational requirement to be located in that environment;<sup>13</sup>
- (d) to avoid development that may result in reverse sensitivity effects that constrain the ability of the Port to be developed and used because of the imposition of time or other operational constraints.<sup>14</sup>

4.5 These provisions are future looking. As noted in the principal reasons and explanations accompanying objective 8.2.3:

*"There is a need to recognise that regionally significant infrastructure such as ports, network utilities, transport networks and flood protection works will need to be located in the coastal environment, and that they will need to be developed in response to future growth of population and economic activity in the region."*

4.6 The specific importance of the Port is described in the principal reasons and explanations accompanying policy 8.3.6 as follows:

*"Regionally significant infrastructure includes commercial maritime facilities at Kaikōura and the ports of Lyttelton and Timaru. They are important for the social and economic well-being of Canterbury. They provide for the effective movement of people and goods within, into and out of Canterbury, creating important connections between people, places and markets.*

*Development may result in activities which are incompatible with the efficient use and operation of regionally significant infrastructure at Kaikōura or the ports of Lyttelton and Timaru. These may be incompatible because they require a level or type of environment*

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<sup>10</sup> CRPS page 243.

<sup>11</sup> CRPS objective 8.2.3.

<sup>12</sup> CRPS policy 8.3.6(1).

<sup>13</sup> CRPS policy 8.3.6(2).

<sup>14</sup> CRPS policy 8.3.6(4).

*which cannot be reasonably achieved close to the facilities at Kaikōura or the ports of Lyttelton and Timaru – for example in relation to noise or safety. They may also adversely affect operations and safety by creating the potential for conflicts, for example encouraging water recreation in or near shipping zones."*

- 4.7 There are also objectives and policies in Land-Use and Infrastructure Chapter 5 of the CRPS which seek:
- (a) that development is located and designed to function in a way that:
    - (i) is compatible with, and will result in the continued, safe, efficient and effective use of regionally significant infrastructure;<sup>15</sup>
    - (ii) avoids adverse effects on significant natural and physical resources including regionally significant infrastructure, and where avoidance is impracticable, remedies or mitigates those effects on those resources and infrastructure;<sup>16</sup>
  - (b) to avoid development that may result in reverse sensitivity effects that constrain the ability of regionally significant infrastructure to be developed and used because of the imposition of time or other operational constraints;<sup>17</sup>
  - (c) to provide for the continuation of existing infrastructure, including its maintenance and operation, without prejudice to any future decision that may be required for the ongoing operation or expansion of that infrastructure.<sup>18</sup>
- 4.8 The reverse sensitivity nature of these objectives and policies is noted in the principal reasons and explanation accompanying policy 5.3.9, stating (amongst other things):

*"Development sensitive to the effects of regionally significant infrastructure, particularly for residential uses, are to be avoided if they may result in the development and use of such facilities being constrained. Often sensitivity arises because the development is incompatible with the noise generated within, or by the facility, including associated activities such as freight storage and movement, especially night time operations".*

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<sup>15</sup> CRPS objective 5.2.1(2)(f).

<sup>16</sup> CRPS objective 5.2.1(2)(g).

<sup>17</sup> CRPS policy 5.3.9(1).

<sup>18</sup> CRPS policy 5.3.9(2).

## 5. STRATEGIC OBJECTIVES

### Strategic Objective SD-O4 (Natural Hazards)

- 5.1 The section 42A officer recommends no changes to strategic objective SD-O4, which is that natural hazard risks are addressed so that (amongst other things), development is avoided in areas where the risks of natural hazards to people, property and infrastructure are assessed as being unacceptable.
- 5.2 While it is accepted that no changes are required to SD-O4 at this stage, it is respectfully submitted that further opportunity should be afforded for submitters to revisit SD-O4 as part of Hearing C on natural hazards, scheduled for 3 to 5 September 2024. This is necessary to ensure that SD-O4 remains appropriate in light of submissions yet to be considered as part of that hearing, including a submission by Canterbury Regional Council which, if adopted, could cause the PORTZ to be classified as a "high hazard area" with consequential adverse implications, limitations and restrictions on the Port and supporting and related activities within the PORTZ.

### Strategic Objective SD-O6 (Business Areas and Activities)

- 5.3 The section 42A officer's recommended amendment to SD-O6 in Appendix A of the report<sup>19</sup> (as outlined below), is supported for the reasons given in the evidence of Ms Seaton.

SD-O6	Business Areas and Activities
	Business and economic prosperity in the District is enabled in appropriate locations, including by: <ol style="list-style-type: none"><li>1. providing <u>at least</u><sup>21</sup> sufficient <u>and appropriately located</u> land <del>for to meet the operational requirements of</del> a range of <u>existing and new</u> business activities to cater for projected growth;<sup>22</sup> and</li><li>2. providing opportunities for a range of business activities <u>and other compatible activities</u><sup>23</sup> to establish and prosper, provided that commercial activities outside of commercial areas are limited so they do not detract from the role and function of the City Centre and Town Centre zones, <u>or the industrial zones</u>.<sup>24 25 26</sup></li></ol>

- 5.4 Ms Tait for Fonterra has suggested that SD-O6 be amended by inserting a new sub-clause 3 regarding reverse sensitivity.<sup>20</sup> Should the Panel be minded to include that new sub-clause 3, then it is submitted that the PORTZ be referred to in addition to the industrial zones, as it is also appropriate to avoid reverse sensitivity effects in the PORTZ (not just the industrial zones). The following additions (tracked) are suggested:

<sup>19</sup> [Hearing-A-Report-s42A-report-revised-Strategic-Directions-and-Urban-Form-and-Development-Final-including-appendix-5-April-2024.pdf \(timaru.govt.nz\)](#).

<sup>20</sup> [Statement of evidence of Susannah Vrena Tait for Fonterra Limited dated 23 April 2024](#) at paragraph 11.20.



*Business and economic prosperity in the District is enabled in appropriate locations, including by:*

...

- iii. *Mitigating reverse sensitivity effects within commercial zones, and avoiding reverse sensitivity effects within [the Special Purpose Port Zone](#) and industrial zones, and from zones adjoining [the Special Purpose Port Zone](#) and industrial zones.*

### **Strategic Objective SD-O8 (Infrastructure)**

- 5.5 The section 42A officer has recommended the following amendment to SD-O8(4):

SD-O8	Infrastructure
Across the District: <ul style="list-style-type: none"><li>1. improved accessibility and multimodal connectivity is provided through a safe and efficient transportation network that is able to adapt to technological changes;</li><li>2. the provision of new network infrastructure is integrated and co-ordinated with the nature, timing and sequencing of <u>both</u> new development <u>and the growth of existing development</u>.<sup>28</sup></li><li>3. drinking water supplies are protected from the adverse effects of subdivision, use and development; and</li><li>4. the benefits of regionally significant infrastructure and lifeline utilities are recognised and their safe, efficient and effective establishment, operation, maintenance, renewal and upgrading and development is enabled while managing adverse effects, <u>including reverse sensitivity effects</u>, appropriately.<sup>29, 30</sup></li></ul>	

- 5.6 Ms Rosser for Enviro NZ has suggested that sub-clause 4 of SD-O8 be further amended as follows:<sup>21</sup>

*"the benefits of regionally significant infrastructure and lifeline utilities are recognised and their safe, efficient and effective establishment, operation, maintenance, renewal and upgrading and development is enabled while managing adverse effects, including [protection from](#) reverse sensitivity effects, appropriately."*

- 5.7 PrimePort and TDHL support Ms Rosser's recommended addition. It is submitted a reference to "protection" rather than "managing" better gives effect to higher order planning documents, and is more consistent with other proposed provisions in the PDP, including Objective EI-O4 which anticipates that regionally significant infrastructure and lifeline utilities are "not constrained or compromised" by reverse sensitivity effects. EI-O4 states:

*"The efficient operation, maintenance, repair, upgrading or development of Regionally Significant Infrastructure and lifeline utilities are not constrained or compromised by the adverse effects of subdivision, use and development, including reverse sensitivity effects."*

<sup>21</sup> [Statement of evidence of Kaaren Rosser on behalf of Enviro NZ dated 22 April 2024](#) at paragraph 5.6.

## Strategic Objectives SD-O10 (Community and Open Space)

5.8 The section 42A officer recommends SD-O10 should be amended as follows:

SD-O10	Community and Open Space
A range of recreational, social and community facilities and open spaces that meet the long-term needs of the community are enabled, including: <ol style="list-style-type: none"><li>1. <u>where appropriate</u>,<sup>38</sup> the provision of public access to and along the coastal marine area and margins of identified rivers; and</li><li>2. the provision of a network of facilities and open spaces to support densification and new growth areas, including co-location.</li></ol>	

5.9 It is submitted this amendment better gives effect to provisions in the NZCPS and the CRPS which recognise that the provision of public access to and along the coastal marine area is not absolute, but that restrictions on public access can be entirely appropriate.<sup>22</sup> Mr Munro and Ms Seaton provide a range of reasons why restricting public access to the coastal marine area in the Port is appropriate.

### New objective sought by Forest and Bird

5.10 PrimePort and TDHL support the section 42A officer's recommendation to reject Forest and Bird's request for a new urban form and development objective to avoid, remedy or mitigate adverse effects, for reasons given by the reporting officer<sup>23</sup>, and Ms Seaton.

## 6. DEFINITIONS

### Reverse sensitivity

6.1 PrimePort and TDHL lodged further submissions supporting a submission by KiwiRail to amend the definition of "reverse sensitivity" so that it also applies to approved and permitted activities, not just to existing activities. The reporting officer makes recommendations to this effect.

6.2 However, it is submitted that the following suggested changes provide more clarity while giving effect to the higher order policy documents which seek to avoid development that may result in reverse sensitivity effects that constrain the ability of regionally significant infrastructure to be used and

<sup>22</sup> NZCPS policy 19, CRPS policy 8.3.5.

<sup>23</sup> [Hearing-A-Report-s42A-report-revised-Strategic-Directions-and-Urban-Form-and-Development-Final-including-appendix-5-April-2024.pdf \(timaru.govt.nz\)](#), at paragraphs 263 and 282.

developed in response to future growth of population and economic activity in the region:

*"Reverse sensitivity means the potential for the operation of an approved, existing lawfully established or permitted activity to be compromised, constrained, or curtailed by the more recent establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by an existing that activity."*

### **Sensitive activity and sensitive environment**

6.3 PrimePort and TDHL lodged further submissions on various submissions seeking changes to the definitions of "sensitive activity"<sup>24</sup> and "sensitive environment"<sup>25</sup>. PrimePort and TDHL accept the recommendations of the reporting officer on those submissions for reasons given in Ms Seaton's evidence.

### **Risk**

6.4 PrimePort and TDHL agree with the reporting officer's recommendation to reject the Director General of Conservation's submission requesting a new definition be added for "risk". Ms Elizabeth Williams for the Director General of Conservation provides planning evidence agreeing with the officer's recommendations, and thus this is no longer an issue.<sup>26</sup>

**DATED** 30 April 2024



**C O Carranceja**

**Counsel for PrimePort Timaru Ltd and Timaru District Holdings Limited**

<sup>24</sup> Supporting a submission by KiwiRail Holdings Limited to add place of worship, papakainga and community facilities, and opposing in part a submission by Silver Fern Farms to exclude seasonal working accommodation.

<sup>25</sup> Opposing a submission by Forest and Bird to include identified areas important for highly mobile species, and supporting a submission by Fulton Hogan to provide additional clarity.

<sup>26</sup> [Sub166-DOC-Hearing-A-Expert-Witness-Planning-Evidence-Elizabeth-Williams-updated.pdf \(timaru.govt.nz\)](#), at paragraph 17 and the table on page 14.

## APPENDIX 1 – STATUTORY FRAMEWORK TO BE APPLIED BY THE PANEL

The Environment Court's decision in *Colonial Vineyard Ltd v Marlborough District Council*<sup>27</sup> contained a comprehensive summary (as at the date of that judgment) of the mandatory requirements for district plan decisions, which has since been updated to factor in the relevant changes made to the RMA in 2013 and 2017. This is set out below, adopting a similar style to the extract from *Colonial Vineyard* (but with simplified numbering), and showing the updates in tracked changes.

### ***Colonial Vineyard Ltd v Marlborough District Council* [2014] NZEnvC 55 at [17] (bolded emphasis in the original):**

#### A. General requirements

1. A district plan (change) should be designed to **accord with**,<sup>28</sup> and assist the territorial authority to **carry out** – its functions<sup>29</sup> so as to achieve the purpose of the Act.<sup>30</sup>
2. The district plan (change) must be prepared **in accordance with** any regulation<sup>31</sup> (there are none at present) and any direction given by the Minister for the Environment;<sup>32</sup>
3. When preparing its district plan (change) the territorial authority **must give effect to** any national policy statement or New Zealand Coastal Policy Statement and any national planning standard.<sup>33</sup>
4. When preparing its district plan (change) the territorial authority shall:
  - (a) have regard to any proposed regional policy statement;<sup>34</sup>
  - (b) give effect to any operative regional policy statement.<sup>35</sup>
5. In relation to regional plans:
  - (a) the district plan (change) must **not be inconsistent** with an operative regional plan for any matter specified in section 30(1) or a water conservation order;<sup>36</sup> and
  - (b) **must have regard to** any proposed regional plan on any matter of regional significance etc;<sup>37</sup>
6. When preparing its district plan (change) the territorial authority must also:
  - **have regard to**<sup>38</sup> any relevant management plans and strategies under other Acts, ~~and to~~ any relevant entry in the New Zealand Heritage List/Rarangi Kōrero, Historic Places Register and to various fisheries regulations and any relevant project area and project objectives (if section 98 of the Urban Development Act

<sup>27</sup> [2014] NZEnvC 55, at [17].

<sup>28</sup> Section 74(1).

<sup>29</sup> As described in section 31.

<sup>30</sup> Sections 72 and 74(1).

<sup>31</sup> Section 74(1).

<sup>32</sup> Section 74(1), added by section 45(1) of the Resource Management Amendment Act 2005.

<sup>33</sup> Section 75(3).

<sup>34</sup> Section 74(2)(a)(i).

<sup>35</sup> Section 75(3)(c), as substituted by section 46 of the Resource Management Amendment Act 2005.

<sup>36</sup> Section 75(4), as substituted by section 46 of the Resource Management Amendment Act 2005.

<sup>37</sup> Section 74(2)(a)(ii).

<sup>38</sup> Section 74(2)(b).

2020 applies) to the extent that their content has a bearing on resource management issues of the district, and to consistency with plans and proposed plans of adjacent territorial authorities,<sup>39</sup> and to any emissions reduction plan and any national adaptation plan made under the Climate Change Response Act 2002;<sup>40</sup>

- **take into account** any relevant planning document recognised by an iwi authority<sup>41</sup>; and
  - not have regard to trade competition<sup>42</sup> or the effects of trade competition;
7. The formal requirement that a district plan (change) must<sup>43</sup> also state its objectives, policies and the rules (if any) and may<sup>44</sup> state other matters.
- B. Objectives [the section 32 test for objectives]
8. Examine the extent to which the Each proposed objectives of the proposal being in a district plan (change) is to be evaluated by the extent to which it is are the most appropriate way to achieve the purpose of the Act.<sup>45</sup>
- C. Policies and methods (including rules) [the section 32 test for policies and rules]
9. The policies are to **implement** the objectives, and the rules (if any) are to **implement** the policies;<sup>46</sup>
10. Examine whether the proposed provisions (the policies, rules or other methods) Each proposed policy or method (including each rule) is to be examined are the most appropriate way to achieve the objectives of the District Plan by:<sup>47</sup>having regard to its efficiency and effectiveness, as to whether it is the most appropriate method for achieving the objectives of the district plan **taking into account:**
- (i) identifying other reasonably practicable options for achieving the objectives;<sup>48</sup> and
  - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives, including by:<sup>49</sup>
    - (1) identifying and assessing 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:
      - A. Economic growth that are anticipated to be provided or reduced;<sup>50</sup> and
      - B. Employment that are anticipated to be provided or reduced;<sup>51</sup> and

<sup>39</sup> Section 74(2)(c).

<sup>40</sup> Section 74(2)(d) and (e).

<sup>41</sup> Section 74(2A).

<sup>42</sup> Section 74(3), as amended by section 58 of the Resource Management (Simplifying and Streamlining) Act 2009.

<sup>43</sup> Section 75(1).

<sup>44</sup> Section 75(2).

<sup>45</sup> Section 74(1) and section 32(1)(a).

<sup>46</sup> Section 75(1)(b) and (c) (also section 76(1)).

<sup>47</sup> Section 32(1)(b).

<sup>48</sup> Section 32(1)(b)(i).

<sup>49</sup> Section 32(1)(b)(ii).

<sup>50</sup> Section 32(2)(a)(i).

<sup>51</sup> Section 32(2)(a)(ii).

- (2) *if practicable, quantifying the benefits and costs,<sup>52</sup> and*
- (3) *~~proposed policies and methods (including rules); and~~ assessing the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods,<sup>53</sup> and*
- (iii) *if a national environmental standard applies and the proposed ~~rule~~ rule will impose a greater prohibition or restriction than that, then whether that greater prohibition or restriction is justified in the circumstances.<sup>54</sup>*

#### D. Rules

- 11. *In making a rule the territorial authority must **have regard to** the actual or potential effect of activities on the environment<sup>55</sup>.*
- 12. *Rules have the force of regulations<sup>56</sup>.*
- 13. *Rules may be made for the protection of property from the effects of surface water, and these may be more restrictive<sup>57</sup> than those under the Building Act 2004.*
- 14. *There are special provisions for rules about contaminated land<sup>58</sup>.*
- 15. *There must be no blanket rules about felling of trees<sup>59</sup> in any urban environment<sup>60</sup>.*

#### E. Other statutes

- 16. *Finally territorial authorities may be required to comply with other statutes.*

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<sup>52</sup> Section 32(2)(b).

<sup>53</sup> Section 32(2)(c).

<sup>54</sup> Section 32(4), added by section 13(3) Resource Management Amendment Act 2005.

<sup>55</sup> Section 76(3).

<sup>56</sup> Section 76(2).

<sup>57</sup> Section 76(2A).

<sup>58</sup> Section 76(5) as added by section 47 Resource Management Amendment Act 2005 and amended in 2009.

<sup>59</sup> Section 76(4A) as added by the Resource Management (Simplifying and Streamlining) Amendment Act 2009.

<sup>60</sup> Section 76(4B) — this 'Remuera rule' was added by the Resource Management (Simplifying and Streamlining) Amendment Act 2009.