

1 DISTRICT PLAN INTRODUCTION

1.1 PURPOSE OF THE DISTRICT PLAN

This is the first District Plan for the Central Hawke's Bay District, prepared under the Resource Management Act 1991. The purpose of the District Plan is to assist the Council to carry out its functions in order to achieve the purpose of this Act. The Council's main functions are, in summary, to:

- manage the natural and physical resources of the district in an integrated manner;
- avoid or mitigate the risk of natural hazards;
- avoid or mitigate the environmental effects resulting from noise or from the storage, use, disposal or transportation of hazardous substances;
- manage the effects of activities on the surface of rivers and lakes in the district and to manage subdivision.

1.2 LIFE OF THE DISTRICT PLAN

Section 73 of the Resource Management Act 1991 requires the Central Hawke's Bay District Council to have at all times a District Plan. The Council is obliged to begin a full review of its District Plan not later than 10 years after the Plan becomes operative.

In view of possible resource management issue or policy changes in the District over the next 10 years, provision is made under the Act for Changes to the District Plan. These may be initiated either by the Council or by private request.

1.3 COUNCIL MISSION STATEMENT

When preparing the District Plan, the Council has had particular regard to its following mission statement:

"The Central Hawke's Bay District Council will be accountable to its citizens for the good management of the public assets of the District and provide open Local Government at minimum economic cost, with the least possible intervention in the private lives of residents."

1.4 RELATIONSHIP WITH TANGATA WHENUA

The Resource Management Act contains specific obligations in relation to the Treaty of Waitangi and Maori interests. The Act identifies, as a matter of national importance, the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga. The Act also states that the principles of the Treaty of Waitangi must be taken into account when managing the use, development and protection of natural and physical resources. Consultation by the Council with Tangata Whenua in the preparation of the District Plan is also required by the Act.

In relation to the District Plan, the most significant principle of the Treaty of Waitangi is that of partnership. Council is obliged to consult with local Maori to achieve an on-going working relationship between local government and the Tangata Whenua. The Council must have

regard to the Treaty principle of active protection of the traditional resources of the Maori people. This will be achieved by Tangata Whenua involvement in decision-making, regarding those natural resources important to them.

Information sharing between the Tangata Whenua and Council will ensure the principles of the Treaty of Waitangi are clarified and recognised under the Resource Management Act. To this end the Council continues to consult with the Tangata Whenua.

1.5 RELATIONSHIP WITH OTHER PLANS AND POLICY DOCUMENTS

While preparing and reviewing the District Plan, Council must consider a range of other relevant plans and policy documents. The Council is required under Section 55 of the Act to implement any national policy statement. The District Plan must not be inconsistent with:

- any national policy statement (Ss 55 and 75(2));
- the New Zealand Coastal Policy Statement (Ss 55 and 75(2));
- any water conservation order (S 75(2));
- the Hawke's Bay Regional Policy Statement (S 75(2));
- the Hawke's Bay Regional Waste and Hazardous Substances Management Plan (S 75(2));
- the Hawke's Bay Regional River Bed Extraction Plan (S 75(2)).

The Council has also paid regard to the following documents:

- the Proposed Hawke's Bay Regional Water Resources Plan (S 75(2));
- the Proposed Regional Air Plan (s74 (2));
- the Hawke's Bay Conservation Management Strategy;
- the Ruahine Forest Park Conservation Management Plan;
- District Plans of adjacent local authorities (S 74(2)).

Section 68(6) of the Act requires the Regional Council to notify the Council of any regional rules that affect the use of particular areas of land in the District. These rules may cover such matters as the carrying out of earthworks, burning and clearance of vegetation, the discharge of contaminants onto land and gravel extraction. The Council will ensure that any such rules are annexed to, and appropriately annotated in, the copies of the District Plan.

Section 223(d) of the Local Government Act 1974 allows the Council to set out its broad policies and objectives through an annual plan, providing a clear statement of the goods and services produced by the Council. The District Plan through rules is principally a regulatory method of achieving the sustainable management of the natural and physical resources of the District. Service delivery and regulation are complementary procedures, and the delivery of goods and services by the Council can also be used to achieve sustainable resource management. The Council's District and Annual Plans ought to be consistent with each other and work together to achieve the purposes of the Act.

1.6 PUBLIC PARTICIPATION IN THE PROCESS

The Council wants the Plan to fully reflect the concerns and aspirations of the District's community. The Council has consulted widely during the preparation of this Plan. The Act also provides an opportunity for the public to seek amendments to the *Proposed* District Plan. In addition, the Act also provides an opportunity for public input into Changes to the District Plan and most resource consents.

1.7 LEGAL FRAMEWORK

1.7.1 Obligation to Comply:

No person shall use land in a manner that contravenes a rule in the District Plan, unless they have existing use rights or a resource consent granted by the Council (Ss 9 and 10). In the context of the Resource Management Act such use includes the use of the surface of lakes and rivers (S 10A). No person may subdivide land in the District unless expressly allowed by a rule in the District Plan or a resource consent (S 11).

Section 4 of the Resource Management Act states that the District Plan rules do not apply to work or activity carried out by the Crown on land held or managed by the Department of Conservation, provided that:

- the work is consistent with a conservation management strategy or plan; and
- it does not have any significant adverse effect beyond the area of land.

1.7.2 Existing Use Rights:

Sections 10 and 10A of the Act provide for the existing and continued use of land and the surface of water in a manner which contravenes a rule in the District Plan, subject to the following:

- the use was lawfully established (including by designation) before the rule became operative or the proposed Plan was notified; and
- the effects of the use are the same or similar in character, intensity and scale to those which existed before the Plan became operative or the proposed Plan was notified or the designation was removed; and
- if the activity involves the use of the surface of water in lakes and rivers, the person carrying out the activity applies for a resource consent within 6 months of the rule in the Plan becoming operative.

Existing use rights do not apply if:

- the use of land has been discontinued for a continuous period of more than 12 months, unless the Council has granted an extension by way of application; or
- reconstruction, alteration or extension of any building that contravenes a rule in the District Plan and increases its degree of non-compliance.

1.7.3 Status of Activities:

In this Plan, "activity" includes the use and subdivision of land (and the surface of water), and/or the erection and/or use of buildings or structures thereon.

Activities are grouped according to their common characteristics, on the assumption that there is no need to distinguish between activities of similar environmental effect. For example, "residential activity" includes people living in individual residential houses or apartments.

Within each zone, these activities are classified in the Plan as being permitted, controlled, discretionary, non-complying or prohibited. The following are not intended as a complete explanation of these terms - full definitions may be found in the Act.

Permitted activities are allowed by the Plan without a resource consent, providing they comply in all respects any pre-conditions or performance standards specified in the Plan.

Controlled activities require a resource consent. They must comply with any standards and terms specified in the Plan and will be assessed according to those matters in the District Plan over which the Council has reserved control. The Council must grant its consent to a controlled activity, but in granting its consent the Council may impose conditions relating to those matters specified.

Discretionary activities require a resource consent, and may be subject to standards and terms specified in the Plan. The Council may grant or refuse consent to a discretionary activity and, if granting consent, may impose conditions.

In this Plan some activities are listed as discretionary. In addition, a permitted activity that can not meet all the pre-conditions or performance standards for a relevant zone shall be a discretionary activity in respect of those matters of non-compliance.

Non-complying activities require a resource consent. The Council may grant or refuse consent to a non-complying activity and, if granting consent, may impose conditions. In this Plan some activities are listed as non-complying activities.

Prohibited activities are those activities the Plan expressly prohibits in the District or a particular zone. No application may be made for such activities and no resource consent will be granted. In this Plan some activities are listed as prohibited activities.

1.7.4 Performance Standards:

Performance Standards are specified in relation to matters that impact on the use of the particular site and adjacent areas. These performance standards have been introduced after full consideration of their costs and benefits and in relation to the effects of activities on the environment. They are important in achieving a satisfactory environment in the vicinity of an activity.

1.7.5 Resource Consents:

The Act provides for two types of resource consent: land use and subdivision. Discharge, water or coastal permits are resource consents issued by the Hawke's Bay Regional Council.

A resource consent from the Central Hawke's Bay District Council is required by any person proposing to undertake an activity classified in the District Plan as:

- a controlled activity;
- a discretionary activity; or
- a non-complying activity.

No application can be made for a prohibited activity.

An application for resource consent must be made in accordance with Section 88 of the Resource Management Act. Forms for land use and subdivision consent applications are available from the Central Hawke's Bay Council office. An Assessment of Effects on the Environment prepared in accordance with the 4th Schedule of the Act shall form part of the application.

Section 94 of the Resource Management Act prescribes when applications need not be publicly notified. In many situations this requires the written approval of affected persons. The District Plan rules specify those resource consents that shall be non-notified, without the written approval being required of persons affected by the proposal.

Section 104 sets out those matters to which the Council must have regard, in considering a resource consent application:

- "(1) Subject to Part II, when considering an application for a resource consent and any submissions received, the consent authority shall have regard to:*
- (a) any actual and potential effects on the environment of allowing the activity; and*
 - (b) any relevant regulations; and*
 - (c) any relevant national policy statement, New Zealand coastal policy statement, regional policy statement, and proposed regional policy statement; and*
 - (d) any relevant objectives, policies, rules or other provisions of a plan or proposed plan; and.*
 - (e) any relevant regional plan or proposed regional plan, where an application is made in accordance with a district plan; and*
 - (e) any relevant water conservation order or draft water conservation order; and*
 - (g) any relevant designations or heritage orders or relevant requirements for designations or heritage orders; and*
 - (h) any other matters the consent authority considers relevant and reasonably necessary to determine the application."*

The Council will reach a decision on the application in accordance with Section 105 of the Act. The District Plan includes assessment matters which the Council will have regard to when considering resource consents. Section 106 specifies circumstances in which the Council shall not grant subdivision consent for any land, structure on any land or subsequent use of the land subject to or likely to cause or accentuate material damage by erosion, falling debris, subsidence, slippage or inundation from any source.

The Council may impose conditions on consent in accordance with Sections 108 and 220 of the Act, in restricting or prohibiting certain aspects of the proposal to ensure it complies with the Resource Management Act and the District Plan.

1.7.6 Designations:

A designation is a provision made in the District Plan to give effect to a requirement made by a requiring authority. These requirements apply to a public work or a particular project or utility operation.

Any Minister of the Crown or local authority is automatically a requiring authority. Other network utility operators (as defined in Section 166 of the Resource Management Act) may apply to the Minister for the Environment for approval as a requiring authority. A requiring authority may give notice to the Council in respect of a requirement. Although the Council has called for such notices in preparing the District Plan, the Act makes provision for similar procedures throughout the life of the Plan.

Designations are shown on the Planning Maps and listed in Appendix A. These designations limit the use of the land, overriding the provisions of the Plan and any resource consent, in favour of the designated purpose. If a designation is removed the land becomes subject to the rules specified in the underlying zone.

Designations are not the only means of providing for public works or utility operations. The District Plan contains general rules for utilities not designated, providing for them in a manner similar to other general activities.

1.7.7 Heritage Protection Orders:

A heritage order may be issued to protect features or places of special interest, and includes land of special significance to the Tangata Whenua, and such area of land surrounding these places as is necessary to protect and afford reasonable enjoyment of them. No person may undertake work that is contrary to the heritage order except with the consent of the heritage protection authority.

Only a heritage protection authority (e.g. New Zealand Historic Places Trust) can obtain a heritage protection order. Any application for a heritage order has an immediate effect to protect the feature or place of value but still requires a hearing to confirm the order as a provision in the District Plan.

1.7.8 Section 32 Assessment:

Section 32 of the Resource Management Act requires that certain duties be performed in the preparation of any objective, policy, rule or other method in the District Plan. There are three main components to Section 32:

- to address the extent to which the provision is needed at all, to explore other possible means, and to provide reasons for and against the proposed and principal alternative means;
- to evaluate the benefits and costs of the proposed option and the principal alternative means; and
- to decide whether the proposed means is needed to achieve the purpose of the Act and is the most appropriate in terms of efficiency and effectiveness.

Council has satisfied these requirements in the preparation of this Plan.

1.7.9 Enforcement:

The Council may use enforcement powers under Part XII of the Resource Management Act to require persons to cease or not commence activity which is or is likely to:

- contravene the Act, any regulations, a rule in the District Plan, or any resource consent;
or
- be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment.

1.7.10 Monitoring:

The Council has increased responsibilities for gathering information, monitoring and maintaining records on resource management matters. These responsibilities allow the Council to consider refinements of the content of the Plan as well as informing the community about how well the Plan is working.

The monitoring process of the Council has three components:

- compliance with the provisions of the Plan and compliance with conditions of consents. In particular, the Council will monitor compliance with approved resource consents. Where appropriate, the consent conditions will be reviewed as provided for in Section 128 of the Act;

- the state of the environment;
- the suitability and effectiveness of the provisions of the Plan. If necessary the provisions of the Plan will be updated or improved by way of Plan Change procedures.

The procedures for monitoring the effectiveness of the District Plan are set out in Part 3.5.

1.8 CHANGES TO THE PLAN

The Council wants the Plan to be current and relevant and address issues and concerns as they arise. Therefore, the Plan may be varied. Such changes may be in response to revised or updated National or Regional Policy Statements or Regional Plans. As the District develops, the Council will continuously review the Plan, so that on-going and evolving resource management issues are addressed.

Any one may request the Council to change the Plan. The procedure is set out in the First Schedule to the Act. Applicants must define the proposed change, so that it can be readily understood, and describe the environmental results anticipated from the implementation of the change.

Applicants must also provide the following information in support of their Plan Change:

- The extent to which the change is necessary in achieving the purposes of the Act and any relevant objective or policy in this Plan;
- Alternative means of achieving the purpose of the Act or any objective or policy in this Plan;
- Reasons for and against the adoption of the Plan Change and the outcome of taking no action;
- An evaluation of the likely benefits and costs of the principle alternative means and the likely implementation and compliance costs if the Plan Change is adopted.

