

3.5 MONITORING, REVIEW AND ENFORCEMENT

3.5.1 ISSUE

Monitoring and Review

Monitoring and review are integral to the Council's responsibilities under the Resource Management Act 1991.

One of the Council's functions under Section 31(a) of the Act is to:

"...review (the) objectives, policies and methods to achieve the integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district."

This review was carried out in relation to all resource management issues prior to the preparation of this District Plan and will be carried out again prior to the next. Throughout the life of this District Plan various resource management matters need to be subject to ongoing review to assess the extent to which the integrated management of effects of land and resource use is being achieved. This may focus on particular issues or environmental effects in certain areas of the District.

Section 35 of the Act requires this Council to undertake such research or gathering of information necessary to effectively carry out its functions:

"(2) Every local authority shall monitor -
(a) the state of the whole or any part of the environment of its ... district to the extent that is appropriate to enable the local authority to effectively carry out its functions under this Act; and
(b) the suitability and effectiveness of any ... plan for its ... district; and
(c) the exercise of any functions, powers, or duties delegated or transferred to it; and
(d) the exercise of the resource consents that have effect in its ... district, as the case may be, -
and take appropriate action (having regard to the methods available under this Act) where this is shown to be necessary."

Monitoring is important for feedback which allows the Council to fulfill its responsibilities. It is the process of information collection and recording. This includes gathering information and maintaining records on resource management matters and the state of the environment, and the compliance of resource consents granted by the Council. Effective monitoring sets objectives, policies or other mechanisms that evaluates the extent to which resource management objectives and policies contained in the District Plan are being met, and whether the monitoring system is working properly.

Section 75 of the Act sets out the matters to be included in the District Plan, including a requirement to state the procedures to be used to:

- i review the provisions of the District Plan; and
- ii monitor the effectiveness of the Plan as a means of achieving its objectives and policies.

The Council has a statutory obligation to undertake a complete Review of its District Plan at least every ten years (Section 79). Monitoring procedures may indicate a need to refine the provisions of the District Plan prior to a full Review. Should the Council decide to take action on the basis of monitoring and review of the District Plan it may do so by way of a Plan Change, undertaken in accordance with the First Schedule of the Resource Management Act.

Enforcement

No person may use or subdivide land in the Central Hawke's Bay District in a manner that contravenes a rule in the District Plan, unless having existing use rights or expressly allowed by a resource consent granted by the Council.

Under Section 38 of the Resource Management Act the Council may authorise persons to carry out the functions and powers of an enforcement officer. Such officers may serve abatement notices against persons who are breaching the Act, a rule in the District Plan or a resource consent, or operating in a manner which is having an adverse effect on the environment. In relation to noise contravening Section 16 of the Act, an abatement notice may require the adoption of the best practicable option of ensuring that the emission of noise from land or water does not exceed a reasonable level. If abatement notices are not acted on, the Environment Court may issue an enforcement order requiring compliance.

The control of some environmental effects using performance standards is impractical at this point in time. Odour, dust and vibration, for example, are complex in their effect, components and measurement, and to establish effective performance standards is very difficult. However, because these effects can be of considerable annoyance and affect health, the Council must monitor these effects. The Council has available to it enforcement procedures. These procedures allow the Council to consider a situation and determine whether there is an effect of such intensity or character that it is likely to be objectionable, noxious, offensive or dangerous to the extent that it is likely to have an adverse effect on the environment.

3.5.1.1 Objective 1

A District Plan that addresses relevant issues and concerns consistent with the purpose and principles of sustainable resource management.

3.5.1.2 Policies

- 1. To monitor the state of the environment against the anticipated environmental outcomes stated in the Plan, as a means of determining whether the District Plan is achieving what it is intended to.*
- 2. To monitor the compliance of activities or developments with their conditions of consent.*
- 3. To monitor the consistency of the District Plan with regional and national policy statements and its effectiveness in implementing the objectives and policies of those policy statements.*
- 4. To respond to new resource management issues and ineffectiveness in the District Plan by way of review and possible changes to the District Plan.*
- 5. To co-operate with the Regional Council, other territorial authorities and scientific organisations to achieve co-ordinated and mutually beneficial monitoring information.*
- 6. To encourage larger organisations to prepare and make available to the Council environmental management strategies which may form the basis for monitoring programmes.*
- 7. To undertake public consultation in monitoring and review procedures, as a means to better understanding of resource management concerns.*

3.5.1.3 Explanation and Reasons

These policies have been developed to meet the requirements of Sections 31, 35 and 75(1)(i) of the Resource Management Act. The Council's overall programme for monitoring will be set out in the Annual Plan. The Council will initiate and/or accept requests for Plan Changes where the need is demonstrated through monitoring. Cooperation between other organisations and the Council is a way of efficiently monitoring. The Council encourages public input into monitoring and review procedures.

3.5.1.4 Objective 2

Land (and water surface) uses consistent with the provisions of the District Plan and the principles of sustainable resource management.

3.5.1.5 Policies

1. *To use available powers under Part XII of the Resource Management Act to ensure that activities comply with the Act (in particular the requirement to avoid, remedy or mitigate adverse environmental effects), the District Plan and any resource consents granted.*
2. *To use enforcement powers, where appropriate, in response to adverse effects of land uses brought to the attention of the Council by both the general public and the Council's own monitoring programmes.*

3.5.1.6 Explanation and Reasons

The Council has prepared the District Plan as a means to achieving the sustainable management of natural and physical resources. To ignore persons or interests operating in a manner that contravenes the Act, the District Plan or a resource consent, the Council would jeopardise the achievement of the environmental outcomes sought in respect of the District. The monitoring programme undertaken by the Council should highlight situations in which abatement notices or enforcement orders may be required.

3.5.2 MONITORING PROCEDURES

The Council will review the District Plan to ensure it is effectively achieving its objectives and policies and, if necessary, undertake a Plan Change or a Review of the Plan. Procedures for such a review of the provisions of the District Plan will consist of:

- A. analysis of the results of the following monitoring procedures;
- B. assessment of requests for Changes to the Plan; and
- C. a 10 yearly review of the entire District Plan.

There is endless scope for gathering and analysing information. Financial constraints mean that priorities must be set. Monitoring needs to be targeted at:

- issues of most concern to the community;
- objectives and policies closely related to the ability of future generations to meet their needs and matters of national importance in Section 6;
- issues, objectives and policies which are new or altered from the transitional District Plan and where the effectiveness of methods to achieve such objectives and policies is less certain;
- environmental results which provide clear and certain indicators; and
- issues or areas where there is currently inadequate or no information.

For each Section of the District Plan a set of "environmental results anticipated" has been specified. These form the basis for the monitoring specified below for each topic area, targeted according to the above priorities.

The annual monitoring programme will be specified each year in the Annual Plan. Analysis of data will enable an assessment to determine provides information to measure progress of the Plan. Changes in funding or work priorities will influence the amount of monitoring carried out in any year.

Monitoring will be undertaken through:

1. **Council Records:** The Council is required under the Act to keep and monitor information collected through its regulatory and other responsibilities, such as resource and building consents and a complaints register. Analysis will provide information on development within the District and attitudes to any adverse effects of that development. Monitoring of compliance with resource consent conditions will assist in assessing the adequacy and appropriateness of policies and rules.
2. **Department of Statistics and Valuation New Zealand Information:** The Council will obtain updated data from these and other sources of demographic, building, agricultural and business information.
3. **Surveys:** The Council will survey the community on significant resource management issues.
4. **Annual Planning Process:** Money allocated in the Annual Plan will be used to establish a programme to monitor the environment generally (Section 35). The details of this programme are set out in this Plan. This programme will help identify new or changing issues of relevance to the District Plan, and trends affecting the state and health of the environment and land use activities.
5. **Regional Council Monitoring Programme:** The Regional Council monitors its own areas of responsibility. This is relevant to the Council's District Plan, e.g. ground and surface water quality and availability, soil erosion and soil health, vegetation cover, coastal erosion rates, flooding risks. The Regional Council's Annual Monitoring Report is an important source of information. The Council will liaise with the Regional Council regarding the monitoring information and, where appropriate, will assist financially with monitoring programmes that benefit the District.
6. **Liaison with Other Councils:** Other Districts share many of the same resource management issues as Central Hawke's Bay. The Council will liaise with other Councils and, where possible, pool resources to undertake jointly-funded monitoring and research.
7. **Scientific Organisations:** The Council will consider supporting and assisting research organisations undertaking relevant monitoring and research investigations; and will monitor the outcomes of such research.
8. **Landowners:** The most effective monitoring can often be undertaken by landholders themselves, e.g. vegetation and soil condition in the hill country. With the Regional Council, the Council will where appropriate support and assist landowner groups undertake their own monitoring and provide information regarding monitoring techniques. Organisations that own land and/or facilities may already undertake their own environmental monitoring. The Council will co-operate with these organisations where their information can be usefully integrated into the Council's own programme.

3.5.3 MONITORING OF KEY ENVIRONMENTAL RESULTS

Using the above range of monitoring procedures, the following will be the key components of the Council's long term programme to monitor and review the achievement of the Plan's objectives and policies.

Housing, Population and Subdivision

- Changes in the density and distribution of buildings, including residential activities.
- Changes in the extent of settlements and the contrast between settlements and their surrounding rural areas.
- Changes in population size and density.
- Changes in number of residential units.
- Changes in the amount of vacant land available in Residential, Township and Business zones.
- Improvements and development of public open space.
- Rate and extent of new subdivisions in all zones
- Ability to service new subdivision and development adequately and efficiently.
- Capacity of public services to accommodate additional development.

Business

- Changes in business floorspace quantity, distribution and type of businesses.
- Changes in the location of different types of business activity.
- Availability of public parking in business areas.

Rural Areas

- Changes in the location, type and scale of factory farming activities.
- Change in the nature, scale and location of farming, forestry and other land-based rural activities.
- In conjunction with the Hawke's Bay Regional Council, monitor changes in vegetation cover and the soil erosion rates in the hill country.

Nature Conservation, Heritage and Landscape Values

- In conjunction with the Department of Conservation and the Historic Places Trust, monitor changes in the level of protection afforded to sites of nature conservation, heritage and landscape values through public land acquisition, the use of covenants or agreements, or resource consent conditions, or district plan provisions.
- Changes to number and condition of remaining heritage buildings.
- Satisfaction of Tangata Whenua with procedures instituted regarding archaeological sites.

Natural Hazards

- Physical damage from any hazard events and the effectiveness of response procedures.
- In conjunction with the Hawke's Bay Regional Council, monitor changes in levels of risks from hazards due to improved protection works or property development in areas at risk, and
- Changes in knowledge and undertaking about the likelihood of the occurrence of natural hazards.

Transport

- Significant changes in traffic volumes of major routes.

Recreation and Open Space

- Increase in the number and location of reserves acquired by the Council.
- Usage of recreation facilities.
- Usage of waterways for recreational and commercial activities.

Hazardous Substances

- In conjunction with the Regional Council, the preparation and updating of an inventory of the use and manufacture of hazardous substances.
- Recording of any spillages, pollution and other incidents and effectiveness of responses to spillages, pollution and other incidents.

Signs

- Complaints received regarding adverse effects of signs.

Noise

- Assessment of noise levels in the District.
- Complaints received regarding adverse effects of noise.

Odour

- Complaints received regarding adverse effects of odour.